

University Senate Minutes

February 1, 2022

3:45pm – 5:00pm, ZOOM

- Chairperson Piper called the February 1, 2022 meeting of the University Senate to order at 3:45pm
- Minutes from the November 30, 2021 meeting were **APPROVED**
- Agenda items for the February 1, 2022 meeting were **APPROVED**
- Chair Piper opened the floor for nominations for Vice Chairperson. Shagufta Haque and Evan Orr were nominated. Todd Cunningham launched a poll vote and Shagufta Haque was elected.

Reports and Announcements

A. President's Report:

- Welcome back to the spring semester.
- COVID - omicron is here among us. We are seeing that with the student case numbers. There were 88 new cases last week which is the largest 1-week new case count we've seen. To be honest, I was expecting even more than that. I don't think we've hit the peak just yet. We are in a critical period right now and need to be doing everything we can to limit the spread of the highly infectious omicron strain. At the same time, everyone is sick-and-tired of the restrictions. The COVID committee and I are receiving more complaints than ever about students and employees not following the mask mandate. We need everyone to take this seriously - please use the KN95 masks that are available to all students and employees. Please encourage others to wear them. Wear them anytime you are inside, not just when you sit down in your class, not just when someone is watching. As you've heard, we are not allowing spectators to attend indoor athletic events from now until February 13. That is, in many ways, unfair to our student athletes and to those spectators who have been following masking and social distancing rules. Unfortunately, many have not. I am hopeful that if we can renew our commitment to following the protocols for the next couple of weeks, we can avoid taking more punitive enforcement measures and we can get to the other side of the omicron peak and get back to something a bit closer to normal.
- I know that there has been some concern about the furloughing of several unrepresented employees - often we call them "managers" and what will happen next. I'll remind you that at the beginning of this academic year I said that there would not be retrenchment of faculty or furloughs of unionized employees this year, but that we did need to make a reduction of 10 or so FTE of non-represented employees. The furloughs are the last step in reaching that target. There are not plans for other major reductions in any employee group. We do need to continue to reduce our expenses, which we are accomplishing by employee attrition and reducing in other expenses.

- The State System Board of Governors is meeting tomorrow afternoon and Thursday morning. The public meeting is Thursday morning. Much of the agenda will be updates about the integrating university. I will be providing a brief update on the appropriation allocation formula workgroup and gathering some board feedback. We hope that this formula will be in place for allocating the State System appropriation for fiscal year 2022-2023. Next week, Governor Wolf will release his proposed 2022-2023 budget. We don't yet know what he will include for the State System, but you may recall that the Chancellor and board requested a significant increase of about \$73 million per year. In the meantime, IUP will be receiving some additional one-time funds to support efforts for student success, diversity, equity, and inclusion, and workforce development programs.
- While our spring enrollment numbers won't be official until this coming week (I've been asked not to use the term "freeze date", given the weather), I can tell you that it looks like we'll be hitting our projections and my goals in several areas: headcount enrollment looks good, as does continuing student persistence from fall to spring. We look to be falling just a little short of the freshmen fall to spring retention goal - by just a handful of students. This is thanks to great work by everyone to help make sure students get registered. That's good news and thank you.
- While we have hit enrollment headcount targets, we continue to fall short in full-time equivalent (FTE) students. That impacts our finances, our performance metrics, and, most importantly, our students progress toward their degrees.
- A subcommittee of UBAC, co-chaired by Vice Presidents Fitzsimons and McCarthy and which includes Senate Chair Piper as a member, has been working tirelessly since mid-November to examine our tuition pricing structure. They have come forward with good recommendations. UBAC will be briefed on the work of the group at their meeting on Friday, February 4. It's premature for me to give details today, but IUP is submitting a proposal to the system office this week that will make significant changes in how we charge tuition to in-state undergraduate students. The proposal must be approved by the IUP Council of Trustees in March and by the Board of Governors in April. If approved, the changes would be effective beginning Fall 2022. My thanks to the committee for their great work.
- On January 15, I was required to submit a financial sustainability update to the chancellor. UBAC will also hear about that at their Friday meeting. IUP will also submit a mid-year update to the Comprehensive Planning Process (CPP) report by February 22 and that will be shared with the university committee after that.

B. Provost's Report:

- Welcome to the spring semester. Thank you for your efforts in making this a smooth launch.
- I've been receiving quite a few questions about ongoing support for instructional design and online teaching and learning. I want to share with you that there will be a communication being sent on Monday with details. I have been working closely with Information Technology Services and the Center for Teaching Excellence in order to develop a plan to ensure that there is ongoing support.
- The other item I want to bring to your attention is NextGen Phase 2. The new business on the agenda today includes the additional three reports from Coordinating Councils 2, 3, and 5. Now

that we have all of the white papers and the recommendations available, I want to acknowledge the work of Karen Rose Cercone and Hilliary Creely in organizing this effort and making the materials available and successfully moving the process along. We will continue to follow the same process that we used with the first two white papers that were presented at Senate. They're shared today for discussion, and open for communication with any members of the coordinating councils or the senate committees that brought them forward. Next, feedback will be collected by means of a survey. Additionally, we are in the midst of updating the NextGen website archiving the emphasis of the restructuring of Phase 1 piece of NextGen and focusing on Phase 2, which is the outcome of the coordinating councils. After all of the data have been collected and summarized, the recommendations from all 5 councils will be shared with President's Cabinet for discussion and review. After the discussion and review, there will be recommendations identified to move forward. These recommendations will be tasked to existing campus committees, structures, and units for implementation.

- **Senator Smith-Sherwood:** Will a message be sent regarding plans for orientation.
 - **Interim Provost Luetkehans:** Orientation and onboarding will continue to be supported by the University College. This has been a team effort and the team will continue to support this work from within the Undergraduate and Student Success area. The University College is in the midst of transitioning those responsibilities and will be ready for March 1, which is the rollout of the initial orientation.
- **Senator Kondo:** Many of the ideas that are coming from the coordinating councils cost money. At what stage will a budget analysis happen.
 - **Interim Provost Luetkehans:** President's Cabinet will be engaged in the review and discussion of the recommendations, including an exercise of an analysis of priority and feasibility.
 - **President Driscoll:** We do have the potential to make some limited one-time fund investments in initiatives that will be highly likely to show good results. This will be part of the analysis. As we determine and refine the future, we will be pursuing external funds, potentially to fund some more transformative initiatives that are on the list that we cannot fund ourselves in the short term.

FOR INFORMATION:

The Provost has accepted the recommendations for curriculum actions endorsed by the IUP-APSCUF Representative Council at their December 9, 2021 meeting as follows:

From the University-Wide Undergraduate Curriculum Committee:

1. The following program is being placed in moratorium:
 - Interdisciplinary Fine Arts, Dance Arts Track, BA

C. Chair's Report:

- I would like to welcome everyone back to another great semester!

- Congratulations to Dr. Hilliary Creely who has been appointed as dean of the School of Graduate Studies and Research.

D. Vice Chairperson's Report:

- Thank you for everyone who voted for me; I am extremely honored and very excited to serve in this role for the rest of the semester. Among the many responsibilities, promoting the student voice is very important to me. Since I represent SGA, I promise to promote the student voice for as long as I am in this position.

Standing Committee Reports

A. Rules Committee (Chair Smith-Sherwood)

FOR INFORMATION:

The proposed amendment to add the words “or designee” to the Senate Constitution following the phrase “the local AFSCME president” was presented to the Senate for a first reading and will be brought to the floor for a vote next month. The first reading as well as a rationale for the amendment was included in Appendix A (shared below).

In preparation for Phase I of the election cycle, the Rules Committee asks that all current staff, administrative, and faculty senators check the Senate roster to determine whether or not they will need to seek re-election or reappointment to the University Senate for next academic year. This may be determined by looking for the S-code associated with each Senator: if your code ends in 2, that means you will need to seek re-election or reappointment to your position. If your code ends in 1, that means you do not need to do anything at this time. If your code ends in X, that means you are an ex-officio member of the Senate. Again, no action is required in that instance. All student Senate rosters are maintained by their respective student organizations.

A link to the current roster will be sent by email to all current staff, administrative, and faculty senators following today's meeting.

If you discover an error or have a question regarding your Senate term, please send an email to me: smithshe@iup.edu.

The Rules Committee will meet next Tuesday, February 8, at 3:45 pm via Zoom.

PROPOSED AMENDMENT TO THE CONSTITUTION (FIRST READING): Insert the words “**or designee**” following “the local AFSCME president.”

CONSTITUTION

(Amended: 4-92/2-93/5-94/4-96/3-01/2-05/2-07/4-19)

UNIVERSITY SENATE CONSTITUTION Revised 4/2019

PURPOSE

The purpose of the University Senate is to provide a formal means through which the student body, faculty¹, staff, and the administration, working as a unified group, shall have a

¹ The term faculty (as distinguished from FACULTY) is used to represent not only those members of the university staff whose duties are primarily instructional, but also members of recognized academic departments, the

representative share in the governance of the university. In order to further a sense of university community on all issues of governance, the University Senate shall have a consultative role to the president and Council of Trustees that is designed to empower the University Senate with a significant voice in the governance of the university.

The University Senate shall approve all curricular matters before they are implemented. The Association of Pennsylvania State College and University Faculties (APSCUF) has delegated its contractual curricular responsibility to the University-Wide Graduate Committee and the University-Wide Undergraduate Curriculum Committee. At least two-thirds of the membership of each of these committees shall be FACULTY². These committees shall forward curricular proposals to the University Senate for approval. The University Senate shall report simultaneously its proposals to the president of the university and the president of APSCUF. As defined by the Collective Bargaining Agreement, past practice, and meet-and-discuss agreements, APSCUF shall retain its usual prerogatives with respect to curricular matters before they are submitted to the council.

The University Senate can study any issue of university governance and make recommendations to the president and the council. The president and the council, (when possible), shall provide the University Senate with an opportunity to review all policies and make recommendations prior to their implementation.

As a matter of expediency, occasionally it may be necessary for administrative personnel, during the normal exercise of their duties, to initiate or modify policies when there is insufficient time to present such matters to the University Senate for consultation. The initiators of such policies shall immediately give notification of their action to the University Senate chair and the chair of the Rules Committee. If it applies, notification shall also be given to the chair of the Senate committee within whose purview subject policy matters ordinarily fall. Such policies will automatically be included as new business on the agenda of the University Senate meeting immediately following such enactment.

Proposed amendments of the constitution shall be referred to the Rules Committee, which shall report the amendment to the University Senate for action no sooner than the regular monthly meeting immediately following the introduction or first reading of the proposed amendment. If the amendment receives a majority vote of those in attendance at this meeting, then the Rules Committee shall refer the proposed amendment in writing, with printed ballots, to the University Senate where a two-thirds affirmative vote of those voting is necessary for passage.

Nothing relating to the organization and administration of the University Senate shall be construed so as to limit the authority of the council or the president of the university with

professional library staff, and the professional or managerial staff of the Student Cooperative Association (with the exception of its director, who is classified as an administrator).

² FACULTY is herein defined as it is in the Collective Bargaining Agreement between APSCUF, as the bargaining agent for the FACULTY, and the SSHE. FACULTY is defined as all members of the FACULTY bargaining units, union members and non-union members alike.

respect to the administration of the university as prescribed by law. Further, nothing in the constitution or the rules and regulations of the University Senate shall be construed so as to limit the authority of the president of the university to appoint such other councils and committees as deemed necessary to facilitate the efficient administration of the university.

COMPOSITION & ELECTIVE PROCEDURES

The University Senate shall consist of a number of faculty double the number of departments of the university, a voting administrative segment one-third the size of the faculty segment, and a student segment one-half the size of the faculty segment.

The Senate shall also include one Alumni Association representative and four representatives from the staff. Faculty, staff, and administrative members shall be employees in good standing at the time of election or appointment and during terms of service. Students must be enrolled and in good standing at the time of election or appointment and during terms of service.

Faculty is herein defined to include not only those members of the university staff whose duties are primarily instructional, but also members of recognized academic departments, the professional library staff, and the professional or managerial staff of the Student Cooperative Association (with the exception of its director, who is classified as an administrator). The faculty of the Northpointe and Punxsutawney campuses also shall be included. FACULTY is herein defined as it is in the Collective Bargaining Agreement between APSCUF, as the bargaining agent for the FACULTY, and the SSHE. FACULTY is defined as all members of the FACULTY bargaining units, union members and non-union members alike.

For the purposes of University Senate representation, the professional library staff, the managerial staff of the Student Cooperative Association, and the faculty of the Northpointe and Punxsutawney campuses shall be considered as constituting departments.

"Student," as herein used, refers to both the undergraduate and graduate student bodies.

The faculty segment of the University Senate shall consist of one member elected by and from each department of the university, two FACULTY members appointed by the president of APSCUF (one to serve as one of the co-chairs of the University-Wide Undergraduate Curriculum Committee and one to serve as one of the co-chairs of the University-Wide Graduate Committee), twenty-four FACULTY members elected at large for seats on the UWUCC and the UWGC by the FACULTY, and the remainder to be elected at large by and from the FACULTY to make the total at-large faculty segment equal to the number of senators elected by the departments.

The administrative segment shall include the university president (*non-voting senator*) and administrators/managers serving on standing committees by virtue of their offices (*ex-officio*). At least half of the remaining number shall be elected by and from the administrators/managers, with the remainder to be appointed by the university president.

The student segment shall consist of undergraduate and graduate students in proportion to their FTE enrollment, but no segment shall be less than 20% of the total student contingent. Each delegation shall be elected by its representative student body. Undergraduate students shall be elected under the auspices of the recognized student association as defined in Pennsylvania State Act 1982-188. In both cases, the officiating body shall call for and accept voluntary nominations for election to the University Senate.

The staff segment shall consist of the local AFSCME president **or designee** and three representatives from the staff as elected from and by the staff.

The Alumni Association representative shall be appointed by the Alumni Executive Board.

Except where constrained by collective bargaining agreements, the Rules Committee shall exercise general jurisdiction over the manner in which elections to the University Senate are conducted, including such matters as determining the eligibility of university employees and students for University Senate membership, and establishing the rules by which elections are to be conducted. Such rules shall include provisions establishing the means by which voluntary nominations for election to the University Senate may be made to the Rules Committee, or whatever group the Rules Committee or the University Senate establishes to function as a nominating agency. The Rules Committee shall also be responsible for conducting such referendums of the various segments of the university as the University Senate shall deem necessary.

Election to the University Senate for the faculty and administrative segment shall be for a two-year term. Students may be elected to the University Senate for a term of not less than one academic year and not more than two academic years. Terms of the alumni and staff representatives shall be as designated by their respective organizations.

Any member of the University Senate properly elected or appointed to a University Senate committee is a voting member of that committee.

RATIONALE: Current Senate by-laws permit the participation of designees in Senate and/or on Senate standing committees for several *ex-officio* positions, including Provost and VP for Academic Affairs, President of IUP-APSCUF, Dean of the School of Graduate Studies and Research, Associate VP for Finance, and VP for Finance and Administration. Due to work schedule, the current local AFSCME president has not been available to attend Senate meetings and has requested that a designee be permitted to attend Senate meetings instead. As this *ex-officio* position is similar to those listed above, the Rules Committee approved the proposal of this amendment to the Constitution at its December 7, 2021 meeting for a first reading by the University Senate at its February 1, 2022 meeting.

B. University-Wide Undergraduate Curriculum Committee (Chair Sechrist)

- If departments have any major curriculum revisions, they need to be submitted by spring break. Any minor revisions, need to be submitted by the end of March as we only have one meeting in April.

C. University-Wide Graduate Curriculum Committee (Chair Moore)

- Curriculum needs to be submitted by the end of March.

D. Awards Committee (Chair Paul)

- Thank you to everyone who submitted an application for the Senate Awards.

E. Non-Credit Committee (Chair O'Neil)

- No report.

F. Library and Education Services Committee (Chair Chadwick)

- Our next meeting is Tuesday, February 8 at 3:45pm.

G. Research Committee (Co-Chair Sciulli)

- Our next meeting is Tuesday, February 8 at 3:30pm.

H. Student Affairs Committee (Chair Erwin)

FOR INFORMATION:

Memo

TO: Senate Committee on Student Affairs (SCOSA)

FROM: Elise Glenn, Chief Diversity and Inclusion Officer and Title IX Coordinator

DATE: January 5, 2022

FOR: Draft IUP Sexual Discrimination and Sexual Misconduct Policy

TO: Senate Committee on Student Affairs (SCOSA)

FACTS:

IUP is subject to federal law under Title IX of the Education Amendments of 1972 (Title IX) which states that,
No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX and on May 6, 2020, issued Title IX regulations that required university policy and procedures to be in compliance with the regulations by August 14, 2020.

IUP adopted the IUP Sexual Discrimination and Sexual Misconduct Policy on August 14, 2020, to handle sexual misconduct complaints in accordance with the Title IX regulation.

ISSUE:

OCR issued an update to Title IX regulations on August 24, 2021, based on a July 28, 2021, ruling in federal district court.

FOCUS:

The primary change necessitated by the change in law, is that evidence can now be considered in a hearing, even if the person to whom the evidence pertains, does not appear at the hearing. For example, if a complainant provides evidence in the form a of a text message in which the respondent appears to apologize for a sexual assault, the hearing board may consider that evidence even if the respondent does not participate in the hearing. This is the manner in which administrative hearings operated under Title IX up until the regulations of 2020. The regs had prohibited such evidence from being

considered by the decision-maker (at IUP that’s the Hearing Board). The Cardona decision restores the legal precedent and allows for the decision-maker to consider the evidence.

REQUEST:

In the interest of compliance, the results of the ruling are best incorporated into the updated version of the IUP Sexual Discrimination and Sexual Misconduct Policy that is before you for consideration. The attached the IUP Sexual Discrimination and Sexual Misconduct Policy draft includes necessary revisions to incorporate the guidance provided by OCR along with minor ministerial revisions.

I ask that you approve this draft policy and submit same to Senate for consideration

FOR ACTION:

APPROVED

**INDIANA UNIVERSITY OF PENNSYLVANIA
Sexual Discrimination and Sexual Misconduct Policy**

Subject: Sexual Discrimination and Sexual Misconduct Policy

Original Date Established: August 24, 2003

Revision Dates: August 8, 2008; February 29, 2012; April 29, 2014; May 1, 2018; April 30, 2019; August 14, 2020, **?, 2022**

Originating Office: President **President’s Approval:**

Distribution Code: A **Date of Approval:** **?, 2022**

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INTRODUCTION

1. Purpose of Policy

Title IX of the Education Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX’s prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student’s ability to equally access educational programs and opportunities.

On May 19, 2020, the U.S. Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972³ that:

- Defines the meaning of “sexual harassment” (including forms of sex-based violence) that are reflected in the definitions of Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault and Regulatory Stalking included as regulatory Prohibited Conduct under this Policy;
- Addresses how the University must respond to reports of misconduct falling within the definitions of Regulatory Prohibited Conduct under this Policy; and

³ The full text of the Final Rule and its extensive Preamble is available here: <http://bit.ly/TitleIXReg>

- Mandates a grievance (or resolution) process the University must follow before issuing disciplinary sanctions against a person accused of Regulatory Prohibited conduct under this Policy.

In addition to federal legislative requirements, Act 16 of 2019⁴ of the General Assembly of Pennsylvania requires all postsecondary institutions in the Commonwealth of Pennsylvania to adopt a clear, understandable, written policy on sexual harassment and sexual violence that informs victims of their rights under federal and state law, including the crime victims bill of rights.

2. Prohibited Behaviors

The University prohibits all Sexual Misconduct Violations as defined in this Policy. This prohibited conduct can affect all genders, gender identities, and sexual orientations. Some of these prohibited forms of conduct may also be crimes under Pennsylvania or federal law.

The University will promptly and equitably respond to all reports of sexual misconduct in order to eliminate the misconduct, prevent its recurrence, and redress its effects on any individual or the community.

3. Title IX, VAWA, and Nondiscrimination

The University prohibits unlawful discrimination or harassment on the basis of sex, race, color, age, religion, national or ethnic origin, citizenship status, sexual orientation, gender identity or expression, pregnancy, marital or family status, medical condition, genetic information, veteran status, or disability in any decision regarding admissions, employment, or participation in a University program or activity.

4. Statement on Privacy and Confidentiality

The University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. Every effort will be made to protect the privacy interests of all individuals involved. Privacy, confidentiality, and privilege have distinct meanings under this Policy.

Privacy generally means that information related to a report of sexual misconduct will be shared only with a limited circle of individuals, including individuals who “need to know” in order to assist in the review, investigation, or resolution of the report or to deliver resources or support services. While not bound by confidentiality or privilege, these individuals will be discreet and respect the privacy of all individuals involved in the process. Participants in an investigation of sexual misconduct under this Policy, including Advisors and Witnesses, will be informed that privacy helps enhance the integrity of the investigation and protect the privacy interests of the parties, however, nothing in this Policy is intended to impose restraints on a party’s ability to discuss the allegations under investigation or to gather and present evidence as part of the resolution process.

⁴ The text of Act 16 of 2019 is available here: <https://bit.ly/3f7DAr6>

Certain individuals are designated as having confidentiality. For reports made to employees designated as having confidentiality, the University will respect the reporting party's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations, such as mandatory reporting obligations concerning abuse including sexual misconduct involving minors. See **Mandated Reporting Obligations of University Officials, Volunteers and Employees** under the **University Reporting Obligations** section for more information.

Individuals designated as having confidentiality are required to report the nature, date, time, and general location of an incident to the Title IX Coordinator. Individuals designated as having confidentiality can provide information about the University and off-campus resources, support services, and other options. As noted above, because of the confidential nature of these resources, disclosing information to or seeking advice from individuals designated as having confidentiality does not constitute a report or Formal Complaint to the University and will not result in a response or intervention by the University. A person consulting with individuals designated as having confidentiality may decide to make a report to the University and/or law enforcement. Sexual Discrimination and Sexual Misconduct Resources can be found here:
<https://www.iup.edu/social-equity/policies/sexual-discrimination-and-sexual-misconduct-resources/>.

Communication with certain individuals may be privileged by operation of law and reports made to these individuals will not be shared with the University Title IX Coordinator or law enforcement except in very limited situations such as when failure to disclose the information would result in imminent danger to the individual or to others or as otherwise required by law.

All University proceedings are conducted in compliance with the requirements of state and local law and University policy. No information will be released from such proceedings except as required or permitted by law and University policy.

The University may share non-identifying information about reports received in aggregate form including data about outcomes and Disciplinary Sanctions.

5. 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 at any point before or during the resolution process that do not fundamentally alter the process. Requests for accommodations may be made to the Title IX Coordinator or the Director of Student Support and Community Standards and may be referred to another appropriate party or office on campus. Neither the Title IX Coordinator nor the Director of Student Support and Community Standards will affirmatively

provide disability accommodations that have not been specifically requested by the Parties even where the Parties may be receiving accommodations in other University programs and activities.

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.

6. Free Expression and Academic Freedom

The University is firmly committed to free expression and academic freedom and to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community. Sexual misconduct, including retaliation, against members of the University is not protected expression nor the proper exercise of academic freedom. The University will consider principles of free expression and academic freedom in the investigation of reports of sexual misconduct or retaliation that involve an individual's statements or speech.

7. Alcohol and Drug Use Amnesty for Students

The health and safety of every student at the University is of the utmost importance. The University recognizes that students who have been consuming alcohol and/or using illegal drugs (whether such use is voluntary or involuntary) at the time alleged sexual misconduct occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The University strongly encourages students to report incidents of sexual misconduct. A witness to or individual who experiences sexual misconduct, acting in good faith, who discloses any incident of sexual misconduct to University Officials or law enforcement may not be sanctioned under the IUP Community Standards Policy for violations of alcohol consumption and/or illegal drug use policies occurring at or near the time of the incident(s) of alleged sexual misconduct. The University may require the individual to attend an approved alcohol or drug education program. Amnesty does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

8. Scope of Policy

This policy applies to all on-campus and off-campus conduct that is likely to have a substantial adverse effect on any member of the University community. There is no time limit for reporting allegations of sexual misconduct, however, the University strongly encourages the prompt reporting of sexual misconduct to allow the University to respond promptly and effectively. 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 Formal Complaint for a lack of jurisdiction. See the **Jurisdiction and Dismissals** section.

Please see the **Reporting Sexual Misconduct** section below for more information on how and where to report misconduct, discrimination, and/or harassment, or to file a Formal Complaint.

9. Burden of Proof

The burden of proof refers to who has the responsibility of showing a violation has occurred. It is always the responsibility of the University to satisfy the burden of proof. The Respondent does not have the burden to prove that a violation did not occur. Respondents may decide not to share their side of the story or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility. Additionally, Decision-Maker(s) shall not make an adverse inference against a Respondent for the Respondent's refusal to participate in an investigation or hearing, nor will the Respondent's refusal to participate result in increased sanctions if the Respondent is found responsible for the violation(s).

10. Standard of Proof

The University will use the preponderance of the evidence standard in investigations of formal complaints alleging sexual misconduct violations under this Policy. This means that the individual(s) charged with making a finding must determine whether it is more likely than not that a violation of the Policy occurred.

11. Effective Date

This policy will be effective **February ?, 2022**.

12. Impact on Other Policies or Processes

As used in this Policy, sexual misconduct may also encompass criminal conduct under Pennsylvania and/or federal law. Additionally, sexual misconduct under this Policy may result in civil and/or administrative or legal consequences.

13. Revocation by Operation of Law

Applicability of the Title IX Final Rule, 85 Fed. Reg. 30026 (May 19, 2020), is subject to future legislative or court actions. Should any portion of the Title IX Final Rule be set aside, stayed, or held invalid by a court of law, or should the Title IX Final Rule be withdrawn or modified to not require any of the elements of this Policy, this Policy, or the invalidated elements of this Policy, will be deemed revoked as of the publication date of the opinion or order and for all reports after that date, as well as any elements of the process that occur after that date, if a case is not complete by that date of opinion or order publication.

SEXUAL MISCONDUCT DEFINITIONS

1. Dating Violence – This includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

Dating Violence is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity, and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Dating Violence will be categorized as Non-Regulatory.

2. Domestic Violence – This includes any violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under Pennsylvania’s domestic or family violence laws, or by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of Pennsylvania.

Domestic Violence is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity, and when the Complainant is participating or seeking to participate in an Education Program of Activity at the time of the filing of the complaint. Otherwise, Dating Violence will be categorized as Non-Regulatory.

3. Retaliation – Any action, directly or through others, which is aimed to deter a reasonable person from reporting sexual misconduct or participating in an investigation or hearing or action that is done in response to such activities. This includes but is not limited to intimidation, threats, coercion, or discrimination against any individual (A) for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations; or (B) 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 sexual misconduct occurred.

4. Sexual Assault – This includes any sexual act directed against another person, without the Consent of the Complainant, including instances where the Complainant is incapable of giving Consent. Sexual Assault may be one of the following categories:

- A. Sexual Penetration Without Consent** – Any penetration of the mouth, sex organs, or anus of another person, however slight by an object or any part of the body, when Consent is not present. This includes performing oral sex on another person when Consent is not present.
- B. Sexual Contact Without Consent** – Knowingly touching or fondling a person’s genitals, breasts, buttocks, or anus, or knowingly touching a person with one’s own genitals or breasts when Consent is not present. This includes contact done directly or indirectly through clothing, bodily fluids, or with an object. It also includes causing or inducing a person, when Consent is not present, to similarly touch or fondle oneself or someone else.

- C. Statutory Sexual Assault** – The age of consent for sexual activity in Pennsylvania is 16. Minors under the age of 13 cannot consent to sexual activity. Minors aged 13-15 years old cannot consent to sexual activity with anyone who is 4 or more years older than they are at the time of the activity. Minors aged 16 years of age or older can legally consent to sexual activity as long as the other person does not have authority over them as defined in Pennsylvania’s institutional sexual assault statute⁵.

Sexual Assault is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Sexual Assault will be categorized as Non-Regulatory.

5. Sexual Exploitation – Engaging in sexual behaviors directed toward or involving another person or use of another person’s sexuality for purposes of sexual gratification, financial gain, personal gain, or personal advantage when Consent is not present. This includes, but is not limited to, the following actions, including when they are done via electronic means, methods, or devices:

- A.** Sexual voyeurism or permitting others to witness or observe the sexual or intimate activity of another person without that person’s Consent;
- B.** Indecent exposure or inducing others to expose private or intimate parts of the body when Consent is not present;
- C.** Recording or distributing information, images, or recordings of any person engaged in sexual or intimate activity in a private space without that person’s Consent;
- D.** Prostituting another individual;
- E.** Knowingly exposing another individual to a sexually transmitted disease or virus without that individual’s knowledge; or
- F.** Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

6. Regulatory Quid Pro Quo Sexual Harassment – An Employee conditioning the provision of aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.

7. Non-Regulatory Quid Pro Quo Sexual Harassment – A University Official, Volunteer, or Student conditioning the provision of aid, benefit, or service of the University on the individual’s participation in unwelcome sexual conduct.

8. Regulatory Hostile Environment Sexual Harassment – Unwelcome conduct, on the basis of sex, that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s Education Program or Activity.

⁵ The text of Chapter 31 of the Pennsylvania Crimes Code is available here: <https://bit.ly/305G9pu>

9. Non-Regulatory Hostile Environment Sexual Harassment – Unwelcome conduct, on the basis of sex, that a reasonable person would determine is sufficiently severe, pervasive, and objectively offensive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from any educational, employment, social, or residential program in offered connection with the University.

10. Regulatory and/or Non-Regulatory Stalking – This means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. fear for their safety or the safety of others; or
- B. suffer substantial emotional distress.

A course of conduct is when a person engages in two or more acts that include, but are not limited to, acts in which the person directly, indirectly, or through third parties by any action, method, device, or means follows, monitors, observes, surveys, threatens, or communicates to or about a person in a prohibited way or interferes with a person's property.

Stalking includes the concept of cyberstalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts, email, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Stalking is categorized as Regulatory when it occurs in the United States, within an Education Program or Activity, and when the Complainant is participating or seeking to participate in an Education Program or Activity at the time of the filing of the complaint. Otherwise, Stalking will be categorized as Non-Regulatory.

OTHER DEFINITIONS

1. Advisor – An individual who may be present to provide support to a Party throughout an investigation and/or hearing.

- A. Advisors may accompany a Party to any meeting or hearing they are required or eligible to attend, but may not speak for the Party, except for the purposes of cross-examination.
- B. Each party is responsible for coordinating and scheduling with their choice of Advisor.
- C. The Advisor may be an attorney or a union representative when applicable.
- D. If a party does not have an Advisor of choice present for a hearing, the University will appoint an Advisor for the limited purposes of conducting cross-examination.
- E. If a Party does not attend the hearing, the Party's Advisor may appear and conduct cross-examination on the Party's behalf.
- F. If neither a Party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing Party for the limited purposes of conducting cross-examination.

- G.** The Advisor is not prohibited from having a conflict of interest or bias in favor of or against a Party nor is the Advisor prohibited from being a Witness in the Sexual Misconduct Resolution Process.

2. Appeals Officer – The individual or individuals with the authority under law or otherwise appointed by the University to decide appeals. The Appeals Officer will be free of conflict of interest and bias and will not serve as the Investigator, Title IX Coordinator, or Advisor to any Party or a Decision Maker in the same matter.

3. Business Day – A day when the University is open and operating for conducting business.

4. Complainant – An individual who has reported being or is alleged to be subjected to conduct that could constitute sexual misconduct as defined under this Policy.

5. Consent – A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity communicated through clear actions and/or words that are mutually understood. In order to be valid, Consent must be active, present, and ongoing. Consent is not present when it is the result of coercion, intimidation, force, or threat of harm. Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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 can be coercive.

Consent is not present when an individual is incapacitated due to alcohol, drugs, sleep, or otherwise without capacity to provide Consent due to intellectual or other disability or other condition. Consent can be withdrawn at any time and consent to one form of sexual activity is not necessarily Consent to other forms of sexual activity.

When alcohol is involved, incapacitation is a state distinct from drunkenness or intoxication. When drug use is involved, incapacitation is a state distinct from being under the influence of or impaired by the use of the drug. Alcohol and other drugs impact each individual differently. Determining whether an individual is incapacitated requires an individualized determination. When determining whether a person has the capacity to provide Consent, the University will consider whether a sober, reasonable person in the same position knew or should have known that the other party could or could not consent to the sexual activity.

When determining whether Consent has been provided, all the circumstances of the relationship between the parties will be considered.

6. Decision Maker(s) – The individual or individuals appointed by the University to render a decision on a Formal Complaint that goes to a hearing. The Decision Maker(s) will be free

of conflict of interest and bias and will not serve as the Investigator, Title IX Coordinator, an Advisor to any Party, or Appeals Officer in the same matter.

7. Disciplinary Sanction – The penalty imposed on an individual for violating this Policy. For Students, Disciplinary Sanctions are subject to applicable University policies, up to and including expulsion from the University. For Employees, Disciplinary Sanctions are subject to applicable collective bargaining agreement or University/System policies, up to and including separation from employment. For University Officials or Volunteers, this may include the removal or the request for removal of the University Official or Volunteer from their respective position.

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

- A. Any on-campus premises;
- B. Any off-campus premises the University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization or a recognized affiliated entity.
- 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.

9. Employee – An individual who is employed by the State System (either at a State System University or in the Office of the Chancellor) including, but not limited to, faculty members, coaches, staff, managers, and student employees.

10. Final Rule – The Final Rule issued on May 19, 2020 by the U.S. Department of Education under Title IX of the Education Amendments of 1972.

11. Formal Complaint – This means a document, including an electronic submission, filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator alleging sexual misconduct against a Respondent and requesting initiation of the process set forth in this Policy to investigate the allegation of sexual misconduct.

12. Hearing Officer – The person or persons who have decision making and sanctioning authority within the University’s Formal Grievance process.

13. Investigator – The Title IX Coordinator or the individual designated by the Title IX Coordinator to perform an investigation under this Policy. The Investigator may not have a conflict of interest or bias for or against an individual party or for or against complainants or respondents in general. The Investigator may not serve as a Decision Maker, Appeals Officer, or Advisor to any Party in the same matter.

14. Notice of Allegations – The written notice the Title IX Coordinator or designee is required to provide to the Parties following receipt of a Formal Complaint. See **Notice of Allegations** section below.

15. Notice of Hearing – The written notice the Title IX Coordinator, Director of Student Support and Community Standards, or other designee is required to provide the Parties prior to the hearing. See **Notice of Hearing** section below.

16. University Official – A member of a Council of Trustees or of the Board of Governors or their respective designees.

17. Parties or Party – A term that refers to the Complainant and the Respondent collectively or the Complainant or Respondent individually.

18. Respondent – Any individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct as defined under this Policy.

19. Student – Any person: (1) seeking admission to the University through the formal University application process, (2) admitted to the University, (3) eligible to register or schedule for classes, or (4) living in University or University-affiliated residence halls even if they are not enrolled at the University. The term “Student” shall include Employees, Volunteers, and University Officials where the Employee, Volunteer, or University Official otherwise meets the enrollment criteria set forth in this definition.

20. Supportive Measures – Non-disciplinary and non-punitive individualized services designed to restore or preserve access to the University’s Education Programs or Activities without unduly burdening either Party. Supportive Measures may be offered, as appropriate, to the Complainant and/or the Respondent regardless of whether a Formal Complaint is filed. Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties (no contact orders), changes in work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus.

21. Title IX Coordinator – The individual designated by the University, with assistance of the Deputy Title IX Coordinators, to coordinate the University’s compliance with Title IX and VAWA and to respond to reports of violations. The Title IX Coordinator may not have a conflict of interest or bias for or against an individual party or for or against complainants or respondents in general. The Title IX Coordinator may serve as the Investigator of a Formal Complaint. The Title IX Coordinator may not serve as a Decision Maker or Appeals Officer.

22. Volunteer – A recognized volunteer or any 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. For purposes of this Policy, employees

and officials of recognized affiliated entities, ROTC instructors, visiting professors, and unpaid camps and conference personnel will be considered volunteers.

23. Witness – A person who has knowledge related to specific aspects of a case and may have reported such aspects to the institution.

REPORTING SEXUAL MISCONDUCT

Any individual, including a third party, may make a report of sexual misconduct. Complainants and third-parties are encouraged to report sexual misconduct as soon as possible to allow the University to respond promptly and effectively.

The Title IX Coordinator and the University President, Provost, Vice President for Student Affairs, Vice President for Administration and Finance, Deans, Athletic Director, and others designated by the President have authority to institute corrective measures for reports of alleged violations of this Policy. Mandated reports to the Title IX Coordinator by University Officials, Volunteers, and Employees shall not automatically result in corrective measures being instituted. Individuals are encouraged to report sexual misconduct directly to the Title IX Coordinator, through the University's electronic and anonymous reporting systems or by filing a Formal Complaint.

1. Reports to the Title IX Coordinator

Any person may report sex discrimination, including sexual misconduct (whether or not the person reporting is the person alleged to be the person subjected to conduct that could constitute sex discrimination or sexual misconduct), in person, by mail, by telephone, through the University's on-line reporting system (<https://www.iup.edu/social-equity/report-an-incident-of-concern/index.html>), or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Indiana University of Pennsylvania Title IX Coordinator:

Elise Glenn, Chief Diversity and Inclusion Officer/Title IX Coordinator
B-17 Delaney Hall
920 Grant Street
Indiana, PA 15705
Email: title-ix@iup.edu; social-equity@iup.edu; eglenn@iup.edu
Telephone: 724-357-3402

Such a report may be made at any time (including during non-business hours) by using the online reporting form (<https://www.iup.edu/social-equity/report-an-incident-of-concern/index.html>), by electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

The University's Title IX Coordinator is trained to work with individuals who report sexual misconduct and have knowledge about resources and services, both on and off campus, including the availability of Supportive Measures.

If a report of misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely warning to the community to protect the health or safety of the community. The timely warning will not include any identifying information about the Complainant.

Please Note: Title IX Coordinators are not a confidential source of support. While they will address matters reported with sensitivity and will keep your information as private as possible, confidentiality cannot be guaranteed. To speak with an individual(s) designated as having confidentiality, please contact the [IUP Counseling Center, 724-357-2621](tel:724-357-2621). (See also, "[Individuals Appointed with Confidentiality](https://www.iup.edu/social-equity/policies/sexual-discrimination-and-sexual-misconduct-resources/)" document at <https://www.iup.edu/social-equity/policies/sexual-discrimination-and-sexual-misconduct-resources/>).

Please Also Note: Making a report is different from filing a Formal Complaint (see the section titled **Filing a Formal Complaint**). A report is defined as notification of an incident of sexual misconduct to the Title IX Coordinator or a Title IX Deputy Coordinator by any person. A report may be accompanied by a request for (1) Supportive Measures; (2) no further action; (3) a request to initiate an informal resolution process; and/or (4) filing a Formal Complaint. Filing a Formal Complaint initiates the University's formal investigation process. (See **Sexual Misconduct Resolution Process**).

2. Electronic and Anonymous Reporting

Any individual may also file a report about sexual misconduct using the Incident of Concern reporting form(s): <https://www.iup.edu/social-equity/report-an-incident-of-concern/index.html>. While anonymous reports are accepted, the University's ability to address misconduct reported anonymously is significantly limited.

3. Filing a Formal Complaint

The timeframe for the Sexual Misconduct Resolution Process under this Policy begins with the filing of a Formal Complaint and will be concluded within a reasonably prompt manner, and usually no longer than ninety (90) business days after the filing of a Formal Complaint, provided that the Process may be extended for a good reason as set forth more fully in the **Continuances and Granting Extensions** section. Appeals may extend the timeframe for resolution.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written complaint with a signature or other indication that the Complainant is the person filing the Formal Complaint describing the facts alleged.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. The University will inform the Complainant of this decision in writing and the Complainant will not be required to participate in the process further but will receive all notices issued under this Sexual Misconduct Resolution Process. **Please Note:** The Title IX Coordinator does not lose impartiality solely due to signing a Formal Complaint.

A Complainant who files a Formal Complaint may elect, at any time, to address the matter through the Informal Resolution Process (see the **Informal Resolution** section below).

4. Criminal Reporting Options

Individuals may also seek to initiate a criminal complaint 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

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 sexual misconduct has occurred under this Policy. In cases where there is a simultaneous law enforcement investigation, there may be circumstances when the University may need to temporarily delay its investigation while law enforcement gathers evidence. However, the University will generally proceed with a Formal Complaint even during the time of a pending law enforcement investigation.

The University may not be informed of reports made with law enforcement agencies.

5. External Reporting Options

A person may also file a complaint 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 by emailing OCR.Philadelphia@ed.gov, or by visiting <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html> .

A person may also file a complaint 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/Pages/default.aspx> .

Employees may also 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/how-file-charge-employment-discrimination> .

The University may not be informed of reports made with external agencies.

6. Truthfulness

All participants in the reporting and resolution processes have the responsibility to be truthful with the information they share at all stages of the process. A report of a violation under this Policy is not considered a bad faith report merely because the evidence does not ultimately support the allegation. Individuals are prohibited from knowingly making a false report, filing a false Formal Complaint, or making intentional misrepresentations of facts. If an investigation results in a finding that a person has willfully filed a bad faith report, filed a false Formal Complaint, or made intentional misrepresentations of fact as part of the reporting or resolution process, the person may be subject to appropriate Disciplinary Sanctions under the Community Standards Policy in the case of Students or other relevant University policy and collective bargaining agreements in the case of University Officials, Employees, or Volunteers.

7. Multiple Party Complaints

The Title IX Coordinator may consolidate Formal Complaints involving multiple parties where the allegations of sexual misconduct arise from the same facts or circumstances. In such consolidated matters, the Sexual Misconduct Resolution Process applies to more than one Complainant and/or more than one Respondent, but each party is still an “individual” and not a group or organization. The decision of the Title IX Coordinator to consolidate Formal Complaints is not subject to appeal.

UNIVERSITY REPORTING OBLIGATIONS

1. Mandated Reporting Obligations of University Officials, Volunteers, and Employees

All University Officials, Volunteers, and Employees (including student employees) are obligated to report incidents of sexual misconduct of which they become aware to the Title IX Coordinator/designee, unless: 1) they serve in a role that makes such reports privileged or are recognized as providing a confidential resource (see **Statement on Privacy and Confidentiality**); or 2) they are a faculty member and learn of the report from a student during a classroom discussion, in a writing assignment for a class, or as part of a University-approved research project.

Please Note: These reporting exceptions do not apply to reports of sexual misconduct involving an individual who was or is a child (a person under 18 years of age) when the alleged abuse occurred. When a report involves suspected abuse of a child (an individual under the age of 18 at the time of the incident(s) as reported), all University Employees, University Officials, and Volunteers are required to notify the University Police and the ChildLine run by the Pennsylvania Department of Human Services (1-800-932-0313). All other members of the University community are strongly encouraged to report suspected child abuse to law enforcement or the ChildLine at:

<https://www.iup.edu/humanresources/policies/protection-of-minors/>

University Employees designated as Campus Security Authorities (CSAs) under the Clery Act are required to report certain crimes for federal statistical reporting purposes.

2. University Obligations Regarding Timely Warnings

Parties reporting Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking should be aware that under the Clery Act, the University must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community. If a report of sexual misconduct discloses a serious or immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The timely notification will not include any identifying information about the Complainant.

JURISDICTION AND DISMISSALS

In certain circumstances where violations defined under the Final Rule as Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault, and Regulatory Stalking) do not meet jurisdictional requirements, the University must dismiss those charges contained in the Formal Complaint.

In certain circumstances, the Title IX Coordinator may dismiss a Formal Complaint, or any specific allegations raised in the Formal Complaint at any time during the investigation or hearing.

Any Party may appeal a dismissal determination. See **Determining Jurisdiction and Mandatory Dismissal for Certain Allegations** under the **Sexual Misconduct Resolution Process** section for more information.

EMERGENCY REMOVAL FOR STUDENTS

- 1.** The University retains the authority to remove a Respondent from their Education Programs or Activities on an emergency basis. This action is also referred to as an emergency removal.
- 2.** Before imposing an emergency removal on a student Respondent, the University will:
 - A.** undertake an individualized safety and risk analysis; and
 - B.** determine that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual misconduct justifies a removal.
- 3.** If the University imposes an emergency removal on a student Respondent, the University will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

- A. The University will provide written notice of the emergency removal and applicable charges.
 - B. The University will provide an opportunity for the Respondent to appeal that decision to an appropriate Hearing Officer or designee within 10 business days of the imposition of the emergency removal.
 - C. The designated University Hearing Officer will hear the evidence and determine whether there is sufficient evidence to support the conclusion that the Respondent poses an immediate threat to the physical health or safety of any member(s) of the University community arising from the allegations of sexual misconduct and that, based on that threat, removal is the appropriate course of action.
4. If the University learns of evidence that demonstrates that the emergency action is no longer justified after the emergency removal is imposed against a student Respondent, the University will take prompt action to rescind the emergency removal.

ADMINISTRATIVE LEAVE FOR EMPLOYEES

The University retains the authority to place Employees on administrative leave consistent with applicable requirements of relevant University policies and collective bargaining agreements.

INFORMAL RESOLUTION PROCESS

Informal means of resolution, such as mediation, may be used as an alternative to the formal investigation and hearing procedures. Informal resolution is a voluntary process and may be used as an alternative to the formal investigation and hearing procedures only where a Formal Complaint has been filed. Upon written agreement of all parties, informal resolution may be initiated at any time prior to a finding in a hearing and may be terminated at any time prior to final informal resolution. If the informal process is terminated, the Sexual Misconduct Resolution Process, which includes an investigation and hearing, will proceed. Once a final resolution has been reached, documented, and signed by all parties, the resolution cannot be appealed.

Informal resolution may not be utilized when a Student files a Formal Complaint against a University Employee, Volunteer, or University Official under this Policy.

SEXUAL MISCONDUCT RESOLUTION PROCESS

1. Formal Complaint

The Sexual Misconduct Resolution Process is initiated by a Complainant providing the Title IX Coordinator with a Formal Complaint with a signature or other indication that the Complainant is the person filing the Formal Complaint describing the facts alleged. See the section titled **Filing a Formal Complaint** above.

2. Notice of Allegations

The Title IX Coordinator will draft and provide a written Notice of Allegations to any Party alleged to have violated this Policy. Such notice will occur as soon as practicable, but no more than 10 business days after the University receives a Formal Complaint of the allegations if there are no extenuating circumstances.

The Notice of Allegations will include the following:

- A.** Notice of the University's Sexual Misconduct Resolution Process including a link to a copy of the process.
- B.** Notice of the allegations potentially constituting violations of any University policy and sufficient details known at the time the Notice of Allegations is issued such as the identities of the parties involved in the incident, if known, including the Complainant, the conduct allegedly constituting a policy violation, and the date and location of the alleged incident, if known.
- C.** A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the hearing.
- D.** A statement that the Parties may have an Advisor of their choice.
- E.** A statement that before the conclusion of the investigation, the Parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations whether obtained from a Party or other source.
- F.** Individuals are prohibited from knowingly filing a false report or making misrepresentations. Following an investigation and hearing under applicable policy, if a person is found to have willfully filed a bad faith report or made misrepresentations as part of a resolution process, the party may be subject to appropriate Disciplinary Sanctions under the Community Standards Policy in the case of Students or other relevant University policy in the case of University Officials, Employees, or Volunteers.

The Parties will be notified by their University email accounts or if the University email is disabled, by other reasonable means if they are a Student or Employee, and by other reasonable means if they are neither. Once a notice is emailed or otherwise reasonably sent, it is presumptively delivered.

The University will provide sufficient time for the Parties to review the Notice of Allegations and prepare a response before any initial interview.

3. Determining Jurisdiction and Mandatory Dismissal for Certain Allegations

For alleged violations of Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault, and Regulatory Stalking) contained in a Formal Complaint, the Title IX Coordinator will determine if:

- A. The conduct is alleged to have occurred in the United States;
- B. The conduct is alleged to have occurred in the University's Education Program or Activity; and
- C. The alleged conduct, if true, would constitute Regulatory Prohibited Conduct as defined in this Policy.

If all the above criteria are met, the University will investigate the allegations under the processes set forth in this Policy. If any one of these elements is not met, the Title IX Coordinator will notify the parties the specific allegation contained in the Formal Complaint does not meet the required jurisdictional requirements under the Final Rule and is being dismissed. Any Party may appeal a dismissal using the process set forth in the **Appeals** section below. Dismissal of any violations constituting Regulatory Prohibited Conduct will not affect the University's ability to proceed with an investigation of Non-Regulatory or other charges under this Policy or any other University Policy.

4. Discretionary Dismissals for All Allegations

The Title IX Coordinator may dismiss a Formal Complaint brought under this Policy or any specific allegations raised within that Formal Complaint at any time during the investigation or hearing if:

- A. A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- B. The Respondent is no longer enrolled in, associated with, or employed by the University; or,
- C. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any Party may appeal a dismissal using the process set forth in the **Appeals** section below.

5. Allegations Potentially Falling Under Two Policies

If a Formal Complaint against a Respondent who is a **Student** contains allegations of a violation of any of the listed Sexual Misconduct Violations in this Policy as well as any other violation in the Community Standards Policy, the Sexual Misconduct Resolution Process set forth in this Policy may be applied in the investigation and adjudication of all of the allegations. If all of the alleged Sexual Misconduct Violations of this Policy are dismissed and the remaining underlying allegations, if true, would violate another University policy or the

University's Community Standards Policy, the matter may be referred for further action to the University's Office of Student Support and Community Standards, as appropriate.

If a Formal Complaint against a Respondent who is an **Employee** contains allegations of violations of Regulatory Prohibited Conduct (Regulatory Quid Pro Quo, Regulatory Hostile Environment Sexual Harassment, Regulatory Dating Violence, Regulatory Domestic Violence, Regulatory Sexual Assault, and Regulatory Stalking), the Sexual Misconduct Resolution Process set forth in this Policy will be applied in the investigation and adjudication of those allegations. For all other allegations, the University will follow applicable requirements in University policy and relevant collective bargaining agreements for resolution of the other allegations contained in the Formal Complaint.

If a Formal Complaint against a Respondent who is a **University Official** or **Volunteer** contains any allegations under this policy, the University or System will follow applicable requirements in other University or System policy or procedures/standards for resolution of the allegations contained in the Formal Complaint. Officials and Volunteers are not entitled to live hearings or appeal rights pursuant to this Policy and process.

6. Notice of Dismissal

Upon reaching a decision that any specific allegation contained in the Formal Complaint will be dismissed, the University will promptly send written notice of the dismissal and the reason for the dismissal simultaneously to the parties through their institutional email account or other reasonable means. It is the responsibility of parties to maintain and regularly check their email accounts. Once a notice is emailed or otherwise reasonably sent, it is presumptively delivered.

7. Investigation

A. General Rules of Investigations

The Title IX Coordinator and/or an Investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged under a reasonably prompt timeframe following issuance of the Notice of Allegations.

The University, not the Parties, has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has occurred. Either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and cannot be used to determine responsibility.

The University will provide an equal opportunity for the parties to present witnesses including fact and expert witnesses and other inculpatory and exculpatory evidence, (i.e., evidence that tends to prove and disprove the allegations). See **Inspection and Review of Evidence** section below.

Medical records of a party (or parent, if applicable) will not be considered as part of the investigation without the expressed consent of the party to whom the medical records belong. Any relevant medical records shared with the Investigator will be attached to the Investigative Report and shared with the other party and Decision Maker(s).

B. Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to issuance of the investigation report.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

- 1) Evidence that is relevant, even if that evidence does not end up being relied upon by the Decision Maker(s) in making a determination regarding responsibility;
- 2) Inculpatory or exculpatory evidence (i.e., evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a Party or other source.

The University will make the evidence available to each Party and each Party's Advisor, if any, for inspection and review through an electronic format or a hard copy. The University will also provide a draft of the investigation report for review. The University is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The Parties will have ten (10) business days to inspect and review the evidence, review the draft investigation report, and submit a written response to the Investigator. This response should include any new or additional evidence the Party would like the Investigator to consider. The University will provide copies of the Parties' written responses and any new or additional evidence provided to the other Party and their Advisor. The other Party will have five (5) business days to inspect, review, and respond to the new or additional evidence through a written response to the Investigator. The University will provide copies of the Party's supplemental written response to the other Party and their Advisor.

The Parties and Advisors may not disseminate or photograph or otherwise copy any of the evidence subject to inspection and review for any purpose unrelated to the Sexual Misconduct Resolution Process. Any violation of this confidentiality requirement may result in separate disciplinary action under the Community Standards Policy or other University policy, as appropriate.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The Investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension of the time to submit a written response, which may be denied in the discretion of the Investigator, in consultation with the Title IX Coordinator.

The Investigator has ten (10) business days to generate a report after the responses to additional evidence are due or, alternatively, may provide the Parties and their Advisors with written notice extending the investigation and explaining the reason for the extension.

C. Investigative Report

The Investigator will create an Investigative Report that fairly summarizes relevant evidence.

The Investigative Report is not intended to catalog all evidence obtained by the Investigator but only to provide a fair summary of that evidence.

The Investigation Report will be shared with the Parties and their Advisors at least ten (10) business days prior to any hearing for their review and written response. Any written response received will be appended to the Investigation Report and shared with the Decision Maker(s) and the other party and their Advisor prior to the hearing.

D. Ongoing Notice

If, in the course of an investigation, the University decides to investigate allegations about either Party that are not included in the Notice of Allegations and are otherwise covered Sexual Misconduct Violations falling within this Policy or other violations of the Community Standards Policy, the University will notify the Parties of the additional allegations by their University email accounts or other reasonable means. Once a notice is emailed or otherwise reasonably sent, it is presumptively delivered.

The Parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional allegations.

8. General Rules of Hearings

A. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Director of Student Support and Community Standards, the Hearing Chair, or other designee will send written notice of the hearing to the Parties. The Parties will be notified by their University email accounts or by other reasonable means. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Hearing will contain:

- 1) A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential Disciplinary Sanctions that could result.
- 2) The time, date, and location of the hearing.
- 3) Information about the option for the hearing to occur with the parties located in separate rooms using technology that enables the Decision Maker(s) and Parties to see and hear a Party or Witness answering questions. Parties must inform the Director of Student Support and Community Standards, the Hearing Chair, or other designee of any desire to have the hearing occur in separate rooms at least three (3) business days prior to the hearing to ensure appropriate technology is in place.
- 4) Information on how the hearing will be recorded and on access to the recording for the Parties after the hearing.
- 5) A copy of the University's Statement of Affirmation for participation in a resolution process.
- 6) A list of the Decision Maker(s) who will attend the hearing, along with an invitation to object to any actual or perceived conflicts of interest or bias of the Decision Maker(s) prior to the hearing. The President of the University or their designee shall serve as the Decision Maker for all cases involving a Respondent who is an employee.
- 7) A statement that if any Party or Witness does not appear at the scheduled hearing, the hearing may be held in their absence.
- 8) Notification that each party must have an Advisor present at the hearing, and that each party may choose their Advisor. The Party should notify the Hearing Chair or other designee in advance of the hearing if they do not have an Advisor, and the University will appoint one.
- 9) A list of materials provided to the Decision Maker(s) about the matter and the opportunity to provide a written response in advance of the hearing.
- 10) Information regarding whom to contact to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing.
- 11) For compelling reasons, the Hearing Chair or other designee may reschedule the hearing.

B. Hearing

The University will not issue a Disciplinary Sanction arising from an allegation of a violation of this Policy without holding a hearing unless otherwise resolved through an informal resolution process or an alternate process permitted under this Policy.

If the University determines a hearing is necessary, the Parties cannot waive the right to a hearing. The University may still proceed with the hearing in the absence of a Party and may reach a determination of responsibility in their absence. The University will not

threaten, coerce, intimidate, or discriminate against a Party in an attempt to secure a Party's participation.

The Decision Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the hearing or refusal to answer cross examination or other questions.

The hearing may be conducted with all Parties physically present in the same geographic location, or, at the University's discretion, any or all Parties, Witnesses, and other participants may appear at the hearing virtually through video conferencing technology. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing due to technological errors or for other reasonable issues or accommodations.

All proceedings will be recorded through audio recording. That recording or transcript will be made available to the Parties for inspection and review upon request.

C. Continuances or Granting Extensions

The University may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

D. Participants in the Hearing

Hearings are not public and the only individuals permitted to participate in the hearing are as follows:

- 1) The Decision Maker(s)
- 2) The Hearing Chair
- 3) Hearing facilitators, if applicable and different than the Hearing Chair
- 4) Conduct administrator or designee or IT personnel or other University personnel
- 5) The Parties
- 6) Advisor of choice or provided by the University for each Party
- 7) Witnesses
- 8) The Investigator and/or Title IX Coordinator or Deputy Title IX Coordinator
- 9) Any individuals necessary to provide interpretation or other support services associated with reasonable accommodations to facilitate participation in the hearing.

The Decision Maker(s) and Hearing Chair will not have a conflict of interest or bias in favor of or against Complainants or Respondents generally or in favor of or against the Parties to the particular case. The Parties will have an opportunity to raise any objections regarding a Decision Maker's actual or perceived conflicts of interest or bias at the beginning of the hearing.

Parties and Witnesses cannot be compelled to participate in the hearing and have the right not to participate in the hearing free from retaliation.

E. Hearing Procedures

For all hearings conducted under this Policy, the procedure will be as follows:

- 1) The Decision Maker(s) or hearing facilitator will open and establish rules and expectations for the hearing.
- 2) The Parties will each be given the opportunity to provide opening statements.
- 3) The Investigator will present a summary of the final investigation report, including items that are and are not contested. The Investigator will be subject to questioning by the Decision Maker(s) and the Parties (through their Advisors). The Investigator should not be asked their opinion on credibility, recommended findings, or determinations. If such information is introduced, the Decision Maker(s) or hearing facilitator will direct that it be disregarded.
- 4) Decision Maker(s) will ask questions of the Parties and Witnesses.
- 5) Parties will be given the opportunity for cross-examination after the Decision Maker(s) conduct(s) their initial round of questioning. See **Cross-Examination Procedure** below.
- 6) During the Parties' cross-examination, the Decision Maker(s) or hearing facilitator will have the authority to pause cross-examination at any time for the purposes of asking follow up questions; and any time necessary in order to enforce order for the hearing or the established rules of decorum. If any individual does not comply with the established rules of decorum, the Hearing Chair may remove that individual from the proceeding.
- 7) Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Decision Maker(s) or hearing facilitator. A Party's waiver of cross-examination does not eliminate the ability of the Decision Maker(s) to use statements made by the Party.

F. Relevant Evidence and Questions

"Relevant" evidence and questions are those questions and evidence that tend to make an allegation of sexual misconduct more or less likely to be true. "Relevant" evidence and questions do not include the following types of evidence and questions which are deemed "irrelevant" at all stages of any process initiated under this Policy:

- 1) Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless:
 - a) They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or
 - b) They concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent or lack thereof;

- 2) Evidence and questions that constitute or seek disclosure of information protected under a legally recognized privilege including attorney-client privilege; or
- 3) Any party's medical, psychological, and similar records unless the party has given voluntary, written consent.

G. Cross-Examination

- 1) Each Party's Advisor may conduct cross-examination of the other Party or Parties and Witnesses and ask follow-up questions including those challenging credibility directly, orally, and in real time.
- 2) Parties will not be permitted to personally cross-examine each other.
- 3) If a Party does not participate in a hearing, the Party's Advisor may attend and conduct cross-examination on behalf of the Party.
- 4) If neither a Party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing Party and ask cross-examination questions.
- 5) Before any cross-examination question is answered, the Decision Maker(s) or hearing facilitator will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the Decision Maker(s) may be deemed irrelevant if they have been asked and answered.
- 6) The Decision Maker(s) or hearing facilitator must explain to the Party proposing the question any decision to exclude a question as not relevant.
- 7) The Decision Maker(s) may not draw an inference about a determination regarding responsibility based solely on a Party's or Witness's absence from the hearing or refusal to answer cross-examination or other questions.
- 8) Failure to answer questions at the hearing may impact the information the Decision Maker(s) will consider. In accordance with due process requirements applicable to Pennsylvania universities, hearings must include the opportunity to cross-examine witnesses when credibility determinations are at issue. As such, if any witness is not available for cross-examination, the Decision Maker(s) must determine whether any statements or testimony from that witness are admissible for the Decision Maker(s)' consideration.

9. Decisions

A. Timeline for Decision

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within ten (10) business days of the completion of the hearing.

B. Finality

The determination regarding responsibility becomes final either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested as set forth in the **Appeals** section below.

10. Disciplinary Sanctions Against Students

A. Possible Disciplinary Sanctions

The University may impose the following Disciplinary Sanctions upon Students individually or in combination: Disciplinary Warning, Disciplinary Probation, Ban from University Owned/Operated Residence Halls, Suspension, Expulsion, or any educational or supportive sanction deemed appropriate by the Decision Maker(s).

B. Previous Disciplinary Sanctions

Previous Disciplinary Sanctions of any kind involving the Respondent may only be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process and may not be considered to determine whether or not an alleged violation occurred.

C. Timing

The Disciplinary Sanctions will be implemented as soon as is feasible upon the completion of the appeal process.

11. Disciplinary Sanctions Against Employees, University Officials and Volunteers

A. Possible Disciplinary Sanctions

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

Disciplinary Sanctions imposed on a University Official or Volunteer may include a penalty up to removal or the request for removal of the University Official or Volunteer from their respective position.

B. Timing

The Disciplinary Sanctions will be implemented as soon as is feasible upon the completion of the appeal process.

12. Appeals Where the Respondent is a Student

A. Each Party may appeal the outcome of the process on the following grounds:

- 1)** A procedural irregularity under the University policy or procedures that affected the hearing outcome.
- 2)** New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.
- 3)** The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.
- 4)** The Disciplinary Sanction imposed was arbitrary or capricious.

- B.** Appeals must be filed in writing within five (5) business days of being notified of the decision and must indicate the grounds for the appeal.
- C.** The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures and remote learning opportunities remain available during the pendency of the appeal.
- D.** If a party appeals, the University will notify the other party in writing of the appeal as soon as practicable, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal .
- E.** Once the appeal has been received, the Director of Student Support and Community Standards will conduct an initial review to determine if the appeal request meets the limited grounds and is timely. If the appeal does not meet the grounds for appeal or is not timely, the Director of Student Support and Community Standards will notify the parties. If the appeal does meet at least one of the grounds for appeal and is timely, the Director of Student Support and Community Standards will forward the appeal for review by an Appeal Panel or Appeal Officer.
- F.** Appeals will be decided by an Appeal Panel or Appeal Officer which will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor or Decision Maker in the same matter.
- G.** The Appeal Panel or Appeal Officer will confine their review to the basis of appeal alleged and may require the Decision Maker(s) to consider any new evidence and make a finding, require a new Decision Maker(s) to re-hear the case, or modify the sanction.
- G.** The outcome of appeal will be provided in writing simultaneously to both Parties and include rationale for the decision.

13. Appeals Where the Respondent is an Employee

- A.** Each Party may appeal the outcome of the process on the following grounds:
 - 1)** A procedural irregularity under the University policy or procedures that could have affected the hearing outcome.
 - 2)** New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing or dismissal of the Formal Complaint that could affect the outcome of the matter.
 - 3)** The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that could have affected the outcome of the matter.
- B.** Appeals must be filed in writing within five (5) business days of being notified of the decision and must indicate the grounds for the appeal.
- C.** The submission of an appeal stays any Disciplinary Sanctions for the pendency of an appeal. Supportive Measures remain available during the pendency of the appeal.
- D.** If a Party appeals, the University will notify the other Party in writing of the appeal as soon as practical, however the time for appeal shall be offered equitably to all

Parties and shall not be extended for any Party solely because the other Party filed an appeal.

- E. Appeals will be decided by the President or by an Appeal Panel whose members will be free of conflict of interest and bias, and will not serve as an Investigator, Title IX Coordinator, Advisor, or Decision Maker in the same matter. In cases of an appeal filed by an Employee who is a faculty member, the Chancellor or their designee will serve as the Appeal Officer. In all other cases of an appeal filed by an Employee, the President or their designee will serve as the Appeal Officer.
- F. The Appeal Panel will confine their review to the basis of appeal alleged.
- G. The outcome of appeal will be provided in writing simultaneously to both parties and include rationale for the decision.
- H. All local or Step 3 grievance rights under a collective bargaining agreement will be stayed pending the disposition of the appeal.

- Our next meeting is Tuesday, February 8 at 3:45pm.

I. University Development and Finance Committee (Chair Drye)

- We met with the Next Gen Councils 2, 3, and 5 at our last meeting on December 7, 2021. All of the presentations were great, and it was evident that a lot of hard work went into these recommendations.
- Our next meeting is Tuesday, February 8 at 4:00pm.

J. Academic Affairs Committee (Chair Dugan)

- Our next meeting is Tuesday, February 8 at 3:45pm.

Senate Representative Report

A. University Planning Council (Chair Moore)

- Our next meeting is Monday, February 7 at 3:00pm.

B. President's Athletic Advisory Committee (Chair Castle)

FOR INFORMATION:

Monday, November 29, 2021

2:00 p.m.

Zoom

Observations

Welcome and Remarks – Dr. Joshua Castle, Chair

- NCAA Constitution Update: The Committee discussed the new revisions to the proposed NCAA Constitution. The President supplied the committee with survey feedback from the Special Meeting Constitution held in November
- https://ncaaorg.s3.amazonaws.com/committees/ncaa/const/Nov2021ConstC_PostSpecialConventionSurvey.pdf

Remarks from Dr. Michael Driscoll

- The President discussed his concerns regarding Covid and the start of winter sports.

Remarks from Dr. Tom Segar

- Mentioned to the Committee that the next Athletic Speaker series presenter is Erin Song, a 2007 IUP Alumna- She is speaking Wed. Dec 1st
- Appreciated that IUP Student Athletes took part in the NCAA Inclusion Video

Report from University Advancement – Khatmeh Osseiran Hanna

- Started campaign planning with Athletics with Dan Braun and Coach Lombardi well as Todd Garzarelli.
- Oct 31st ahead of 51% of last year in terms of annual giving
- Announced new members in the Advancement Council for Athletics.

Report from University Admissions – Dr. Patti McCarthy

- Provided an enrollment update to the committee. Numbers are improving from last year for spring
- Talked about the efforts for improved spring registration.
- Stated we are ahead from last year for Fall 22 enrollments

Report from Athletic Administration – Todd Garzarelli

- Provided the committee with an update on Athletic Hall of Fame Class Of 2022
- Fall Athletic Update
 - Men's golf captured their 31st conference championship. Isaiah Swan won the Individual Title.
 - Women's Tennis competed at ITA National Championship- The appearance at the ITA Cup - the Division II singles and doubles championship - was the first for the IUP women's tennis program. The wins by Kirchtag (singles) and Munday/Stralka (doubles) acted as the first wins at this level.
- Winter Sports
 - Swimming is off to great start and we already have a national qualifier in diving.
 - Mask Policy for indoor events: Working with Marcomm on getting an important message about masking to the community.
 - Basketball Alumni Day is being worked on. It is planned to be held in February.

Report from Faculty Athletics' Representative – Jim Racchini

- Gave a report on how the FARs felt about the new proposed legislation. They were opposed to 2 of the bylaws involving Football

Report from Student Athletic Advisory Committee – Rachel Johnson

- Stated that athletes are looking forward to the speaker, Erin Song
- PAAC is looking at ways to be involved with the community while keeping COVID protocols in place.

C. Academic Computing Policy Advisory Committee (Senator Ford)

- No report.

D. University Budget Advisory Committee (Senator Soni)

- I will provide a full report at our next Senate meeting.

New Business

- See Appendix A.

Adjournment

- The meeting adjourned at 4:34pm.

Respectfully submitted:

Amber N. Racchini

APPENDIX A

RECOMMENDATIONS OF COORDINATION COUNCIL 2 – NEXTGEN CAMPUS

Overview

Council 2 of NextGen was focused on “What does a NextGen IUP campus look like in its physical layout and modality?”. The charge of the committee included:

- Charge #1: Determine space needs of NextGen colleges, units, and departments.
- Charge #2: Analyze current space usage, inclusivity, and needs for future modality transitions with a focus on opportunities for growth and equity.
- Charge #3 Where should merged, transferred, and new programs be placed?

In order to accomplish charge #2, the council was divided into two subgroups: The Academic Subgroup, which focused on Academic spatial needs and the Non-Academic Subgroup, which analyzed data on other spatial needs for campus.

Utilizing feedback from the campus-wide NextGen Survey (n=1180), Interviews from Deans and Department Chairs, input from the entire IUP NextGen Council 2-Campus group and other strategic IUP personnel, and the Middle State Survey the following recommendations should be considered.

Academic Space and Instructional Modality Recommendations

2.1. Update classroom spaces to improve the learning environment

- Provide more comfortable seating (appropriate for different body sizes and unique needs)
- Classroom furnishings that can be easily moved and rearranged to create fewer lecture-based setups and more “sandbox-style” configurations
- Classroom technology should be improved and/or reimagined (e.g., BYOD) with more power outlets and recharging stations within the classroom
- Determine appropriate room occupancy for academic success and reduce classroom furniture to be appropriate for room size
- Invest in better climate control/HVAC to keep classrooms from being too hot or cold

2.2 Update lab, clinical, and studio spaces to enhance hands-on learning

- Demonstrate a commitment or emphasis on structured experiential learning spaces.

- Update lab/clinical/studio spaces to match classrooms
- Inventory lab/clinical/studio spaces to determine priority list of both functional and cosmetic upgrades

2.3 Increase student access to campus learning spaces and technical support

- Increase student access to classrooms and other spaces (Install I-card access swipes on nearly all buildings for studying and academic work outside routine university hours; increase hours of access to the library)
- In addition to Folger, create more places for group and individual studying, academic work, and informal gathering spaces for students. Spaces should be close to ‘where you are.’
- Create maps/directories to inform students of available spaces and increase signage across campus: Wayfinder” approach to directing students to spaces in close proximity, more door signs, “You are here” maps with services/amenities in close proximity
- Reduce use of older and outdated academic buildings that have issues with cosmetic appearance, technology, HVAC, mold, air circulation, etc.

2.4 Determine the optimal ratio of in-person and online learning experiences

Student survey responses indicated a strong preference for face-to-face instruction. When batching response of “0-1” class modalities with “2 or more,” the responses still heavily favor a lower number of classes that students prefer to take in remote modality. Those who do want more remote classes, however, is far from zero and shows that a significant number of current students prefer a modality that is not F2F. These data were captured via the NextGen Survey of students (n=883).

Table 2: Student Preferences for Instructional Modality of Courses

Type of Class	Modality	Prefer 0 classes	Prefer 0 or 1 class	Prefer 2 or more
Major	Synchronous	58%	72%	28%
	Asynchronous	62%	76%	24%
Non-major	Synchronous	42%	59%	41%
	Asynchronous	38%	59%	41%

- Use data from the NextGen Survey and other sources to set an optimal ratio of F2F versus online courses in general education.
- Determine optimal program modality using data from students, faculty, and deans.

Non-Academic Space Recommendations

2.5 Create intentional outdoor areas (such as a dog park or event facilities) to support student interaction

- There is a desire for the creation of a Dog Park(s) that is centralized to pet-friendly student housing.
- There is a desire for the creation of outdoor areas that support student interaction. This might include study/picnic tables in the Oak Grove and other strategic areas around campus. Additionally, this could include pavilions and outdoor entertainment areas with utilities that could also be used to support events.
- Install outdoor art that reflects IUP's Brand and DEI initiatives. This could improve both school spirit/pride and improve on student recruitment.
- Improved utilization of Co-Op Park. The data indicated that there are several reasons for its under-utilization (communication regarding its availability, transportation/ access, and the amount of programming). It is the committee's belief that this area could be a bigger asset if the transportation issues were addressed.

2.6 Improve accessibility of campus spaces for all learners and communities

- Improve accessibility of physical campus for those with disabilities. This includes accessibility around campus, access to buildings, and access in the buildings. Disability access sometimes is restricted to automatic doors to enter the buildings, but once inside individuals might not be able to efficiently access specific classrooms, restrooms, or other rooms within the building because of their disability.
- Another theme that was mentioned in reference to accessibility was improved signage across campus both internal to buildings and external to campus as a whole. This was also previously discussed in the Academic Sub-group as well.
- Create more student-use technology support areas in departments. This can be increases in print centers, charge stations, computer support, etc. Students need a place to work on projects within the buildings other than the library, which might not be conveniently located due to the building that their program is located in.
- Increase commuter support and resources. Commuters represent a portion of the IUP Community, and the survey results indicated that there needs to be additional resources across campus to support these students. This ranged from access to study areas/lounge hours (maybe expanding Folger hours), to having more access to microwaves in academic building for eating a quick lunch.

RECOMMENDATIONS OF COORDINATION COUNCIL 3 – BUDGET PLANNING

Overview:

The mission of IUP NextGen Council 3, Budget Planning, is long range budget planning to align NextGen with the new IUP strategic plan. The preliminary work of Council 3 members resulted in key questions for university input:

- How are budget allocations currently made at IUP?
- With which level of the university should budget reside (and at what level should reserves/budget surplus be retained)?
- What aspects of IUP's budget should receive proportionately more money in the short term (1-2 years) and long term (3+ years)?
- What metrics should be used to make budget allocation decisions at all levels?
- How can we align NextGen with the new strategic plan as it relates to achieving financial sustainability?

Responses to these questions resulted in the following overarching themes:

- A desire for transparency about how budget allocations are made and what metrics are used to allocate funds at all levels
- A desire for transparency about how tuition models and rates are set and how student aid is awarded.
- A need for “broader thinking” in budget planning to support the mission of the university and to consider how budget decisions can drive the strategic plan.
- A need for departments and offices to understand and be engaged in multi-year planning, to address short term and long-term operational needs.
- Identify new opportunities for financial sustainability in academic alliances that are a result of NextGen.

Some version of zero-based budgeting will address many of the planning recommendations below. This should start immediately, although it will require more than one year to implement effectively. It will also necessitate overcoming a lack of trust that units will budget in good faith and a lack of trust that supervisors won't use low-year budgets for permanent cuts. There are aspects of budgeting beyond the control of IUP, but this recommendation suggests that we control what we can and anticipate a need for flexibility to align planned budgets and actual spending.

3.1 Align Budgeting with the Strategic Plan

- Ensure that local/unit goals, metrics, and investments align with the University Strategic Plan. “Priorities” at local levels should be defined locally and should support college/division/university goals.
- Create and publicize a straight-forward, strategic mechanism by which units request short- and long-term budgets.
- Develop and implement long-term budget procedures for significant expenditures that are important but periodic and do not fit into an annual budget model.
- Establish mechanisms to improve the stability and predictability of local/unit budgets from year to year.

3.2 Increase Transparency and Create Rewards for Budget Efficiency

- Each VP is expected to have a transparent and open process for budget allocation. The process should include clear communication with units.
- When there is planned use for residual budgets, a request should be taken to the appropriate Vice President, and if approved, can be directed to the Division of Administration & Finance for implementation. The process to carry over funds when a planned use of the funds is identified and approved should be clarified and disseminated to all budget managers. The default should be to allocate wisely and to allow for carryover.
- Make the budget development process more interactive, so that local/unit needs are discussed and incorporated into allocation decisions at higher levels. This engagement does not have to be elaborate, but it should be systematic, inclusive, and at least an informed dialogue.
- Improve communication through official governance bodies (e.g., President’s Cabinet, Council of Deans, Council of Chairs, UBAC).
- Incentivize creating budget efficiencies. Reward those that are efficient. Disincentivize hoarding resources or creating fiefdoms.
- If budget reductions are needed, goals should be clear, and local units should be incentivized to meet them. Local units should be empowered with operational flexibility in their budgets.
- Individual departments/units need to look at the new reality and the projected reality of the next few years, and then work these conversations up the hierarchy.

3.3 Establish More Useful Timelines and Decision Points for Budget Decisions

- Advance timelines for budget decisions so that decisions are made early enough that funds can be used effectively. These timelines should be established as deadlines for administrators to make budget decisions that then allow offices and departments to effectively employ funds. Advanced timelines may require an annual re-budget process for all budgets. An example of where this recommendation should be applied is for Temporary Faculty hiring decisions, but it applies elsewhere as well.
- Identify supports for good budgeting practices at all levels, especially for those who are new to, and have responsibility for, budgets.
- Extend operational budget flexibility to as low a level as possible (to local/unit decision-makers).
- Encourage local/unit decision-makers to define meaningful and achievable levels of performance outputs, which would drive feedback loops for budget allocation.

3.4 Re-examine Sources of Income and Re-envision Tuition and Fee Structure

- Identify and communicate additional partnership opportunities with University Advancement and the RI to bring in external funds.
- Re-examine the tuition model and fee structure with consideration to competitive pricing strategies, student enrollment, and budget revenue (tuition and non-tuition) for in-state, out-of-state and international students, and for graduate and high-cost disciplines. This process is in progress with Strategic Enrollment Planning (SEP) and UBAC.
- Re-examine student fees and how they are charged and distributed. The Student Services Fee and the Instructional Fee are examples of mandatory fees that many employees do not understand. Align budget and resources “to transform the culture at IUP to enhance the student experience by fostering exceptional student-centeredness. Transformation will include reordering resources to ensure every student is engaged and can be successful at every point in their journey transitioning to the university, while enrolled at IUP, and after their time at IUP.”

RECOMMENDATIONS OF COORDINATION COUNCIL 5 – FUTURE INITIATIVES

Overview

The purpose of NextGen Coordination Council 5 was to examine future opportunities and ways to position IUP for long-term success. Council 5 was charged with the following to help meet its purpose:

- Charge 1: Determine what innovative programs and/or research initiatives IUP can offer using our current faculty and facilities.
- Charge 2: Build on the Strategic Enrollment Plan to identify greatest opportunities for growth.
- Charge 3: Collaborate with University Advancement to build relationship and partnerships in alignment with IUP's new strategic plan.
- Charge 4: Identify ways that IUP's research strengths can be maintained, strategically expanded, and leveraged in teaching, grantsmanship, and system-wide collaboration.
- Charge 5: Consider how graduate programs might incorporate DEI initiatives.

An additional charge was created by the leadership team after reviewing feedback and the scope of Council 5's purpose

- Charge 6: Teaching – articulating the value of choosing IUP

Over the course of the summer and fall semesters, Council 5 leadership team and committee members met and reviewed each charge and developed the recommendations shared within the document. Relevant campus documents, survey information, focus group data, anecdotal experiences, and other points of information were used to inform the following recommendations and suggested strategies.

5.1 Develop Innovative Programs and/or Research Initiatives

Generally, the majority members of the university community support the need to explore innovative programs and/or research initiatives, opportunities for growth, the incorporation of DEI in various programs, and effective ways to ensure IUP's research strength can be maintained and expanded. In addition, the majority of those who responded to the campus-wide survey agreed/strongly agreed that following are good ideas that will help advance IUP programs and research:

- Invite the directors of centers and institutes at IUP and other stake holders to facilitate collaboration on various research and other funded projects.

- Invite graduate coordinators, department chairpersons, UWGC members, and other stake holders to come together to explore possible collaboration among all our graduate programs.
- Allow departments without graduate programs to offer 400/500 dual level courses, to tap working professionals who wish to advance their education.
- Reduce bureaucratic impediments and sacrifice current profit margins (an example is existing overhead on funded grants) in some academic programs to gain market share and achieve market leadership.

5.2. Identify IUP's Greatest Opportunities for Growth

The majority of faculty agree that there are opportunities that could be offered within their programs that could be profitable. However, there are two barriers. The first is a path to administration to discuss new ideas that includes a face-to-face conversation. It is plausible that great ideas are not explored, potentially because not everyone in a department is in favor or simply do not have access to higher levels of IUP. The second barrier is quick and easy access to feasibility and profitability analyses of new ideas with efficient turnaround.

- Establish a committee to consider a 'red-tape' free process in which new ideas can be expressed and a process that helps departments discern profitability.
- Enable enrollment at both the MS and PhD level at the same time.
- Improve online delivery modality to increase the attractiveness of IUP graduate programs to working professionals.

5.3 Create a New Marketing Approach for all IUP Programs

- Market and/or provide programs to the adult population in the tri-county area (~10,000) that do not have a BS degree.
- Create a committee to examine how to expand marketing the IUP experience to the town and surrounding area.
- Create marketing campaigns that show students engaged in action-oriented activities, for example, our marching band, basketball games and theatre events.

5.4 Re-Imagine the Current Tuition Model

- Our current tuition model is portrayed as the most expensive in the state-system and is thus hampering enrollment initiatives. The entire model should be re-imagined from scratch, realizing there may be initial losses when transferring from the old system to a new system.

5.5 Collaborate with University Advancement to build relationships and partnerships in alignment with IUP's new strategic plan

- Partner with a Purpose: attract groups that share an interest in the University's mission and values, its academic programs, and project outcomes.
- Advance priority government, civic, and business relationships
- Address critical Western PA challenges identified in city, regional, and state strategies
- Advance student and faculty learning, research, and engagement
- Recognize the potential to serve as national models for university-community engagement
- Bring new financial resources to IUP in the form of research grants, sponsored projects, grants, and gifts
- Start leveraging the IUP network which includes alumni and family as well as corporate, foundation, government, and community stakeholders.
- Start to encourage ways that IUP faculty, staff, and students' network with the various external groups.
- Create an internal strategic partnerships university task force led by the Advancement and Strategic Partnership Division
- Create and offer enriching opportunities for the external stakeholders to support and remain connected with IUP, so that they will continue to learn, develop skills, and expand their networks, while also enhancing the campus community and student experience.

5.6 Maintain, Expand, and Leverage IUP's Current Research Strengths

The IUP research efforts need to be expanded in order to keep up with industry demand. Current research efforts require enhanced resources so that academic experiences of all students will benefit. Given the importance on the role of IUP and its public research designation, the implementation of research growth must become an institutional priority. Faculty and staff suggest the following recommendations:

- Enhance the marketing and communications of the university.
- Craft and encourage campus wide support for a strategy to identify growing and trending opportunities
- Create an integrated approach to a transformative educational experience for all undergraduate and graduate students. IUP resources and expertise should be

leveraged to ensure training, growth, and development of the student in multiple dimensions to support graduate program growth.

- Create interdisciplinary research and collaboration opportunities across departments, colleges, and disciplines; Incentivize outreach to other departments by providing sponsored grants for interdisciplinary collaboration; use library services to strengthen research opportunities for undergraduate students and improve online research resources
- Develop collaboration opportunities with industry partners and the community. Identify partners, research opportunities, and research funding sources
- Create courses to teach interdisciplinary research
- Consider developing research opportunities to partner with other PASSHE and non-PASSHE institutions in which students have an opportunity to participate
- Develop agency partnerships (e.g., Anthropology and Geophysics)
- Share best practices with the community at large to help replicate experiences in and with other disciplines

5.7 Expand IUP's efforts to incorporate Diversity, Equity, Inclusion, and Social Justice throughout the entire curriculum.

- Determine how to create a movement that becomes part of the fabric of IUP
- Determine how DEI & SJ related research can be supported across campus
- Explore how DEI & SJ aspects can be added to the curriculum across all disciplines and teaching levels through partnerships with the Center for Teaching Excellence; incorporation of research resources from traditional and marginalized groups into coursework and sharing of examples across disciplines who embed DEI & SJ instruction in their curriculum.

5.8 Embed Proactive Outreach and Support in DEI Strategic Planning and Initiatives

- Provide research opportunities specifically targeted to marginalized and underrepresented students
- Recognize opportunities to improve recruitment of a diverse student body and faculty, such as assistantships that provide pipelines for underrepresented students
- Develop strategies to hire underrepresented faculty and staff