



# Sexual Misconduct Policy

Effective Date: August 13, 2020

Office: Student Affairs, General Counsel, Human Resources

**PURPOSE:** The Sexual Misconduct Policy is intended to inform the University community of the legal obligations required of the institution to end, prohibit the reoccurrence of, and remedy the effects of sexual misconduct against students, faculty, and staff on or off campus. The Policy also informs the University Community of the rights provided to students, faculty, and staff who become victims of sexual misconduct, as well as to students, faculty, and staff who are accused of perpetrating sexual misconduct.

## REFERENCE DOCUMENTS/ RELATED INFORMATION:

Student Conduct Policy

Title IX

Sex Discrimination Policy

Staff Handbook

Faculty Handbook

**SCOPE:** The Sexual Misconduct Policy applies to alleged misconduct on the part of University of Indianapolis students, faculty, staff, visitors, and any other employees/independent contractors or guests at the University against students, faculty, or staff of the University.

**POLICY HISTORY:** This policy is an updated version of the Sexual Misconduct Policy and is updated as of August 2020.

**POLICY STATEMENT:** Students, faculty, and staff at the University of Indianapolis have the right to be free from sexual harassment and other sexual misconduct. All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University Sexual Misconduct policy has been developed to reaffirm this expectation and to provide recourse to those students, faculty, and staff whose rights have been violated.

The University maintains a policy of zero tolerance for sexual misconduct regardless of the sexual orientation or gender identity/expression of individuals engaging in the conduct. Zero tolerance means the University will remedy all unwelcome conduct of a sexual nature that falls within the definition of sexual harassment, as well as other sexual misconduct, and will impose serious sanctions on anyone who violates this policy. Resolution by the University is intended to bring an end to such misconduct, prevent its reoccurrence, and remedy the effects on the victim and the community.

While the policy is quite detailed and specific, the expectations of the University and community can be summarized in one sentence:

*The University will not tolerate behavior that constitutes sexual misconduct and will enforce its policy to the greatest extent possible if after an investigation it determines that sexual misconduct has occurred.*

## I. What Constitutes Sexual Misconduct?

### A. Sexual Harassment

Sexual harassment, as defined by Title IX of the Education Amendments Act of 1972 and clarified in 2020 by regulations promulgated by the U.S. Department of Education, “means conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the [University] conditioning the provision of an aid, benefit, or service of the [University] on the individual’s participation in unwelcome sexual conduct; (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the [University’s] education program or activity; or (3) Sexual assault[,] . . . dating violence[,] . . . domestic violence[,] . . . or stalking[.]” 34 C.F.R. § 106.30(a).

As defined, sexual harassment includes sexual assault, dating violence, domestic violence and stalking. Each term is respectively defined below:

1. **Sexual Assault:** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the FBI, including but not limited to the following: rape, seduction, buggery, fondling, incest, statutory rape, indecent exposure, indecent liberties, or attempt of any of the foregoing. Sexual Assault includes both nonconsensual sexual contact and nonconsensual sexual penetration.

Nonconsensual sexual contact is the touching of breasts, buttocks, groin, or genitals of another, whether clothed or unclothed, intentionally touching another with any of these body parts and/or making another person touch the perpetrator or themselves with or on any of these body parts without consent.

Nonconsensual sexual penetration is penetration, no matter how slight, of the vagina or anus with any body part or object without consent and/or any contact between the mouth of one person and the genitalia of another person without consent.

2. **Dating Violence:** Violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such 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 the interaction between the persons involved in the relationship.
3. **Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Indiana, or by any other person against an adult or youth victim who is protected from that person’s acts under Indiana’s domestic or family violence laws, including the following: someone who is dating or has dated the other person; is engaged or was engaged in a sexual relationship with the other person; is related by blood or adoption to the other person; is or was related by marriage to the other person; has or previously established the legal

relationship as a guardian, ward, custodian, or foster parent of the other person; has a child in common with the other person; or has adopted a child of the other person.

4. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. Stalking includes “cyber-stalking”, which is a particular form of stalking in which a person uses electronic media, social networks, blogs, cell phones, texts, or other similar devices or forms of conduct.

## **B. Sexual Exploitation**

Sexual exploitation is purposely or knowingly doing any of the following:

1. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give consent to sexual activity;
2. Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., livestreaming of images) without consent of all subjects or participants;
3. Engaging in voyeurism (e.g., watching private sexual activity) without the consent of all participants or viewing another person’s intimate parts (including genitalia, groin, breasts, or buttocks) in a place where the person would have reasonable expectation of privacy;
4. Recording or photographing private sexual activity and/or a person’s intimate parts without the consent of all subjects or participants;
5. Disseminating or posting images or private sexual activity and/or a person’s intimate parts without the consent of all subjects or participants;
6. Prostituting another person; or
7. Exposing another person to a sexually transmitted infection or virus without the other’s knowledge.

## II. What Constitutes Lack of Consent?

Consent means voluntary words or action mutually understood by each party to constitute agreement or permission to engage in a specific act at a specific time.

Consent cannot be inferred from silence, passivity, or the absence of resistance, nor can it be inferred from the existence of a current or prior relationship or from consent given previously. The party who initiates sexual activity is responsible for obtaining consent for the activity.

Consent can be withdrawn at any time by any party. Once consent is withdrawn, sexual activity must cease immediately.

**There is no consent if any of the following are present:**

1. **Force:** The use of physical violence that would reasonably be expected to overcome an individual's freedom to choose whether to participate in sexual activity.
2. **Intimidation or Threat:** Express or implied threat of immediate or future physical, emotional, reputational, financial, or other harm to an individual or others that would reasonably be expected to place an individual in fear and that is employed to compel someone to engage in sexual activity.
3. **Coercion:** Unreasonable pressure to engage in sexual activity.
  - a. When evaluating whether pressure is unreasonable, the University will consider the totality of known circumstances, including but not limited to duration, frequency, isolation, and intensity.
4. **Incapacitation:**
  - a. An individual is incapacitated when his/her ability to withhold consent is impaired to the extent of not fully understanding the facts, nature, extent, or implications of the sexual situation that is occurring, due to the use of alcohol and/or other drugs, mental or physical disability, being asleep or unconscious, and/or age.
  - b. The respondent is deemed knowingly to have acted without the consent of an incapacitated person under circumstances in which the respondent, or a reasonable person in the respondent's situation, knew or should have known of the other party's incapacitation.

### III. Where and When Does This Policy Apply?

#### A. Application of the Sexual Misconduct Policy

This policy applies to all actions involving one or more University students, faculty, or staff that meet the following criteria:

- (1) the action is within the definition of sexual harassment or other sexual misconduct;
- (2) the action is perpetrated upon a student, or member of the faculty or staff of the University; and
- (3) the action occurs on-campus, at off-campus University sponsored housing, at a University sponsored event or activity, during a University sponsored study-abroad program, or in any setting off campus regardless of whether the event or activity is sponsored by the University.

This policy applies to students, faculty members, and staff, including all employees/independent contractors of the University, who are accused of sexual misconduct against a student or member of the faculty or staff. If the person accused of misconduct is not affiliated with the University, the University will offer supportive services to the student, faculty, or staff who is the alleged victim. If the person accused of misconduct is a student or member of the faculty or staff of the University and the alleged victim is not affiliated with the University, the University will investigate and take action under this policy if a violation is found to have occurred.

#### B. Definitions applicable to this Policy

1. **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment and/or conduct under this policy that constitutes sexual misconduct.
2. **Formal Complaint:** a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment and/or conduct under this policy that constitutes sexual misconduct against a respondent and requesting that the University investigate the allegation of sexual harassment and/or conduct under this policy that constitutes sexual misconduct.
3. **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment and/or conduct under this policy that constitutes sexual misconduct.
4. **Supportive services/measures:** non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

### III. How to Report Prohibited Conduct

#### Title IX Coordinator

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#### A. Reporting a Violation to the University

##### 1. Amnesty for Complainants and Witnesses

The University community encourages the reporting of sexual misconduct by complainants and witnesses. Sometimes, complainants or witnesses are hesitant to report to University officials or participate in the grievance process because they fear that they themselves may be in violation of University policies, such as underage drinking or use of illicit drugs at the time of the incident. In addition, respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that complainants choose to report sexual misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the grievance process.

To encourage reporting and participation in the process, the University maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a respondent is based on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to respondent with respect to a complainant. However, consideration will be given as to whether granting amnesty to a respondent will help facilitate an honest and forthcoming proceeding.

In addition, to the University's policy on amnesty, Indiana law contains its own amnesty provision in Indiana Code § 7.1-5-1-6.5 for those individuals who have committed offenses involving alcohol that are victims of a reported sex offense or report what they reasonably believe to be a crime, provided such persons abide by the additional requirements of the law, including providing pertinent information to the officer.

- **Students:** Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual misconduct to the Campus Police). The University maintains a policy of amnesty for students who offer help to others in need.

- **Employees:** Sometimes, employees are hesitant to report sexual misconduct they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to University officials. The University may, at its discretion, offer employee complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to respondents and witnesses on a case-by-case basis.

## 2. Persons Authorized to Receive Reports

Violations of this policy may be reported to the Title IX Coordinator, a Deputy Title IX Coordinator, or any faculty member, staff member, or coach. Students, faculty, and staff may also file a report with the University Police or the University’s counseling center. All representatives of the University who receive a report are required to share the report with the Title IX Coordinator, except those designated by the University as having an obligation of confidentiality toward students, faculty, and staff (see below). Complainant may communicate a desire not to move forward with the Administrative Resolution Process described below, but such a desire by the student does not excuse a university employee from the duty to report.

Reports may be made via online report, phone call, e-mail, or in person. The online report form for the Title IX Coordinator can be found at [TITLE IX REPORTING FORM](#).

A complainant who desires to remain anonymous can do so by omitting their name from the online reporting form or telling the Title IX Coordinator or University representative that they wish to remain anonymous. A complainant who remains anonymous cannot be offered supportive services unless they reveal their identity to the Title IX Coordinator; and complainants should understand that the anonymity of the complainant may make it more difficult to investigate the matter and to hold wrongdoers accountable.

### Employees with Obligation of Confidentiality

Those employees whose professional licenses or codes of conduct require confidentiality within the scope of their position do not have an obligation to report when they are made aware of sexual misconduct. The University also has the ability to designate certain employees as having an obligation of confidentiality toward the students, faculty, and staff and has designated:

- i. Counselors at Counseling and Consultation Services
- ii. Health Services staff members
- iii. Pastoral counselors in the Office of Ecumenical and Interfaith Programs

If any complainant would like the details of an incident to be kept confidential, the complainant may speak with any of the above individuals, off-campus local rape crisis counselors, or domestic violence resources, who will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. Employees with an obligation of confidentiality will submit anonymous statistical information to the University for Title IX tracking and Clery Act purposes.



## **Employee Reporting Obligations**

All employees, staff, faculty, coaches and contractors of the University, other than those with an obligation of confidentiality (see above), are required to forward reports of sexual misconduct to the Title IX Coordinator.

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want the University to pursue a formal resolution of the report, the complainant may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with federal law. However, such a request does not negate the duty of all University representatives receiving a report of abuse to share all details of the report with the Title IX Coordinator (if a complainant has expressed to the University representative that they wish to remain anonymous, the University representative need not share the complainant's name, but must explain to the complainant that supportive services cannot be offered if they report anonymously and that it may be more difficult for the University to investigate the matter if the complainant remains anonymous).

## **Federal Timely Warning Obligations**

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 incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

### **3. Provision of Supportive Services**

Upon the receipt of a report of a violation of this policy, the University will offer supportive services to all affected parties, as appropriate, without fee or charge. These services are designed to restore and preserve equal access to the University's educational program or activity without burdening the other party. The supportive services offered may include the following:

- Counseling
- Extension of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of campus
- Referral to Employee Assistance Program

Upon receiving a report of alleged sexual misconduct, the University will promptly inform all affected parties of the availability of these supportive services, and any party may choose to utilize

them. After the University offers supportive services, it will explain the formal complaint process and how to file a formal complaint if one has not yet been filed. Once a formal complaint has been filed, the administrative review and resolution process will begin.

#### **4. Precautionary Interim Measures**

The University reserves the right to take action, including the removal of a Respondent entirely or partially from its educational program or activities, when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies the action. This risk analysis is performed by the Senior Associate Dean of Students/Title IX Coordinator (or designee) in conjunction with the Behavioral Intervention Team using its standard objective violence risk assessment procedures.

##### **B. Retaliation**

Retaliation on the basis of making a report, testifying, assisting, participating, or refusing to participate in an investigation will not be tolerated. Retaliation includes intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy or because an individual has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation.

Complaints alleging retaliation may be filed in accordance with the University's sex discrimination policy.

##### **C. Reporting to Law Enforcement**

The complainant has the option of making a criminal report to the appropriate law enforcement agency. Incidents alleged to have occurred on campus should be reported to the University of Indianapolis Police Department (UIPD). Incidents alleged to have occurred off campus should be reported to the appropriate local law enforcement agency.

The complainant has the right to proceed with a criminal investigation and the University's Administrative Review and Resolution Process simultaneously. The complainant may also choose to pursue either the Administrative Review and Resolution Process exclusively. The complainant's decision regarding pursuit of the criminal process does not impact the Administrative Review and Resolution Process.

The Administrative Review and Resolution Process is distinct from the criminal process. Any investigation conducted by the University will be conducted independently and separately from any investigation conducted by law enforcement. The University may undertake a short delay to allow evidence collection when criminal charges on the basis of the same behaviors that invoke this Policy are being investigated. Actions that take place in the criminal process, including bringing, reducing, or dismissing charges and/or plea agreements, will not determine the resolution of the University process. This information may be considered in the course of the Administrative Review and Resolution Process, if determined to be relevant.

If a complainant wishes to pursue a criminal complaint exclusively, the complainant may request in writing that the Title IX Coordinator temporarily defer the Administrative Review and Resolution Process. In most cases, the complainant's wishes will be respected. However, the University may continue the Administrative Review and Resolution Process where the allegation leads the University to believe that the respondent may be an imminent threat to the safety of the complainant, other students, or faculty/staff members. If the complainant files a criminal complaint with a local law enforcement agency, the University will comply with law enforcement agency requests for cooperation.

## **IV. Administrative Review and Resolution Process**

### **1. Investigation Process**

After a formal report of sexual harassment or sexual exploitation has been made, the investigation process will begin. The complainant, respondent(s), and any additional individuals involved in the investigation will be treated equitably during the investigation process.

#### **A. Notice of allegations**

After a formal report has been made, the University will provide all parties with a notice of the allegations made, including those allegations that potentially constitute sexual harassment, and all details known at the time. The notice will also contain an overview of the University's investigation/grievance process and will indicate when any initial interviews will be scheduled. It will also indicate that no responsibility for the actions is presumed and that a determination regarding responsibility will be made only at the conclusion of the entire review process. In a case of alleged sexual harassment, written notice will also include the option for each party to have an advisor of the party's choice as detailed below. Lastly, the written notice will explain that knowingly making false statements or knowingly submitting false information during the investigation process is a violation of the University's code of conduct and will subject the individual to discipline. Witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an investigator and/or decisionmaker will be subject to discipline under the University's code of conduct.

#### **B. The Investigator and decision-maker**

Both the investigator(s) and the decision-maker(s) will be selected from a trained team by the Title IX Coordinator. No one may serve as both investigator and decision-maker in any setting in which a live hearing is required. Both the investigator(s) and decisionmaker(s) will be screened for conflicts of interest and bias and will be tasked with being fair to all parties to the investigation.

#### **C. Advisors**

In a case of alleged sexual harassment, each party is entitled to an advisor who may be present throughout the entire proceeding. The advisor may be a friend, parent, spouse, mentor, attorney, or a selected member of the University's list of advisors. An advisor is not required, but is recommended. A party will not be entitled to ask cross-examination questions during a live hearing without an advisor, as only the advisor, and not the party, is permitted to cross-examine witnesses and parties. If a party does not have an advisor, the University will provide the party options for the selection of an advisor.

#### **D. Investigation timeline**

The timeline for investigations will be managed by the investigator(s) and will be impacted by the number of parties and witnesses in each individual case. It is the goal of the University to complete the investigation in a timely, fair, and thorough fashion. Parties to an investigation can expect progress reports from the investigators and are encouraged to participate fully with the investigation

to ensure timely completion. Absent a compelling reason or the consent of the parties, the investigation and hearing timeline should not exceed two months.

#### **E. Dismissal of a formal complaint**

The University must investigate all allegations in a formal complaint of sexual harassment. If after an initial investigation the investigator determines that the allegations would not constitute sexual harassment under Title IX, a notice will be issued that the investigation for purposes of a Title IX violation has been dismissed. If the conduct as alleged constitutes sexual harassment under the University's broader sexual misconduct policy, however, the investigation and hearing process will proceed. The notice will indicate whether the entire complaint is being dismissed or whether the investigation process is continuing.

In addition, the University may dismiss a formal complaint if the complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegation therein.

All parties will receive written notice of any dismissal and the reasons for dismissal.

#### **F. Investigation**

The investigator(s) will conduct a preliminary investigation into the factual basis of the allegations. This may include interviewing the parties and witnesses. If a factual basis is found for an allegation of sexual harassment and the formal complaint is not dismissed at the request of the complainant, a live hearing will be held. All parties will receive notice of the date of, and the process that will be used during, the live hearing. No party will be restricted from discussing the allegations under investigation or gathering or presenting evidence. All parties and witnesses who are expected to testify during the live hearing will be provided written notice of the date, time, location, participants, and purpose of the hearing, any investigative interviews, or other meetings that are to occur with sufficient time to prepare to participate.

##### **i. Investigative Report: Sexual Harassment Allegations**

Prior to the live hearing in the case of an allegation of sexual harassment, all parties will have equal opportunity to inspect and review any evidence obtained as a part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to the completion of an investigative report, the University will send each party and the party's advisor the evidence subject to inspection and review in an electronic format or hard copy, and the parties will have 10 days to submit a response, which the investigator(s) will consider prior to the completion of the investigative report.

After all responses are received and the investigation is complete, the investigator(s) will create an investigative report that fairly summarizes relevant evidence and distribute that report to each party and the party's advisor at least 10 days prior to the live hearing.

ii. Live Hearing

A live hearing will be required in all cases where the alleged conduct falls within the definition of sexual harassment under Title IX, including those instances that occur in non-university sponsored events or in an off-campus setting, but involve at least one University student, faculty member, or staff member. Any complaint containing allegations that are not within the definition of sexual harassment, including complaints of sexual exploitation, will be reviewed pursuant to the University's broader misconduct policy and pursuant to its procedures, which may not require or offer a live hearing.

During the live hearing all parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. All parties will have the opportunity to be accompanied by an advisor of their choosing.

At the live hearing, the decision-maker(s) will permit each party's advisor to ask the other party/parties and witnesses all relevant questions, including those challenging credibility. Such cross-examination must be conducted by an advisor, not the parties themselves, and must be relevant to the allegations.

The decision-maker(s) will make a determination as to the relevance of each question prior to the question being answered. The decision-maker(s)' determination as to relevancy of questions is final. A finding that a question is not relevant will prohibit the question from being asked. Specifically, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant except in limited circumstances.

Each party or witness may choose not to submit to cross-examination, but if they do so, the decision-maker(s) may not rely on any statement that party or witness made in reaching a determination regarding responsibility. However, the decision-maker(s) may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross examination or other questions.

iii. Request for a Separated Live Hearing

At the written request of either party, the live hearing may be conducted with each party in separate rooms, connected via videoconferencing. The videoconferencing will still allow each party to hear and see other parties and/or witnesses in real time, but will allow for the parties to avoid being in the same room.

#### iv. Informal Resolution

At any point following the filing of a formal complaint and prior to the determination regarding responsibility either party can request an informal resolution. This request must be submitted in writing to the Title IX Coordinator with reasonable accommodation suggestions included. The request for informal resolution will be discussed with both parties and an amicable outcome will be mediated should both parties desire an informal resolution. At any time, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal complaint process. The University will not offer the option of an informal resolution in instances that involve allegations that an employee has sexually harassed a student.

#### v. Determination Regarding Responsibility

After the live hearing is conducted in a sexual harassment case, the decision-maker(s) shall consider all evidence presented, all testimony, and the investigative report in making their decision. The determination of responsibility for a violation shall be made based on the preponderance of the evidence. Once a decision is reached, each party will be given a copy of the written determination which will include: (1) identification of the allegations potentially constituting sexual harassment; (2) a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notification to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (3) findings of fact supporting the determination; (4) a conclusion based on the application of the University's code of conduct to the facts; (5) a statement of, and rationale for, the result of each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on either party, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to either party; and (6) the University's procedures and permissible bases for appeal.

#### vi. Sanctions and Remedies

Students, faculty, and staff may face a variety of sanctions, based on the seriousness of the violation (see Student Code of Conduct, Faculty Handbook, and Staff Handbook for details). Sanctions may also vary based on such factors as forthrightness during the investigation, prior similar violations, and impact on individuals and the campus community. Sanctions include, but are not limited to, the following: removal of residential privileges, removal from a class or classes, suspension for a semester or more, expulsion with a right to request permission to re-enroll, expulsion with no right to re-enroll, campus education, corrective action, and possible termination of employment.

Failure to complete any required sanctions will be considered a separate violation of the Student Code of Conduct, Faculty Handbook, and/or Staff Handbook and additional, likely more severe, sanctions will be determined based on that violation.

## **2. Appeals Process**

With regard to sexual harassment allegations, all parties are entitled to an appeal from a determination regarding responsibility and from the University's dismissal of a formal complaint or any allegations therein, on the following bases:

- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- (3) The Title IX Coordinator, investigator(s), or decision-maker(s) has a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
- (4) The severity/leniency of the sanctions.

Students, faculty, and staff wishing to appeal an outcome have five (5) business days from the day they receive the determination to appeal to the Vice President of Student and Campus Affairs/Dean of Students (or designee). Once an appeal has been filed, the non-appealing party will be notified in writing. Both parties will be given a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome. After considering the record from the initial investigation and any written statements, the new decision-maker will advise both parties simultaneously in writing of its final decision. The final decision is not subject to further review.

If new evidence is discovered after the appeals process has been completed and the time to appeal has already passed, the complainant's remedy is to file another Sexual Misconduct complaint and proceed through the Administrative Review and Resolution Process detailed in this policy.



## VI. Recordkeeping Requirements

The University is required to maintain the following records for a period of seven (7) years:

- (1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recordings or transcripts, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant to restore or preserve equal access to the University's education program or activity;
- (2) Any appeal and the result therefrom;
- (3) Any information resolution and the result therefrom;
- (4) Documentation regarding records of any action, supportive measures or documentation as to why they weren't offered, and the basis for conclusions that the University's response was not deliberately indifferent; and
- (5) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

Any person who would like to access these records should contact Dr. Jessica Ward, at [wardjl@uindy.edu](mailto:wardjl@uindy.edu).

These records are required to be kept by law and thus the University cannot and will not entertain requests to purge such records earlier than that time period.