

CIVIL RIGHTS AND SEXUAL MISCONDUCT PROCEDURES FOR COMPLAINT REPORTING AND RESOLUTION

I. Introduction

The University has adopted these Complaint Procedures to provide a prompt and equitable method for reporting, investigating, and resolving complaints that specifically involve the alleged violation(s) of the University's Civil Rights and Sexual Misconduct Policy (Item F.1 in the University Handbook), including allegations of discrimination, harassment, and sexual misconduct when they involve University of Southern Indiana faculty, administrators, support staff, and/or students. Those who know, should have known, or believe that they have been subjected to behavior, which violates the University's Civil Rights and Sexual Misconduct Policy, are encouraged to promptly report such behavior in accordance with the procedures outlined below.

Complaints involving allegations that a third-party individual who is not part of the University community (e.g., vendor, contractor, visitor to campus) has violated the policy should be promptly reported to the Affirmative Action Officer/Title IX Coordinator or designee. In emergency or after-hours situations, such reports can be made to Public Safety. The University will strive to do whatever it reasonably can to investigate and stop such behavior at the hands of persons outside of the University's direct control.

Individuals who believe that they may require reasonable accommodations to fully participate in these Procedures are invited to contact Disability Resources (for students) or the ADA Coordinator (for employees). Both offices will work in collaboration with the Title IX Officer and Affirmative Action Officer or designee.

II. Retaliation

Any attempt by faculty, administrators, support staff, or students to penalize, intimidate, or to otherwise retaliate against an individual, who is participating in the University's Complaint Procedures for alleged violations of the University's Civil Rights and Sexual Misconduct Policy, is prohibited and subjects the one who has retaliated to possible disciplinary action, up to and including termination or removal from the University. Any person who believes that someone has been subjected to retaliation should promptly contact the Affirmative Action Officer/Title IX Coordinator or designee.

III. Definitions

Definitions of the terms "discrimination", "harassment", and "sexual misconduct" are found in the University's Civil Rights and Sexual Misconduct Policy in Item F.1 of the University Handbook.

- **Advisor of Choice:** Any single individual who provides either party to a complaint with support, guidance, or advice.
- **Appellant:** An individual who pursues an appeal of an outcome under these Procedures.
- **Business Days:** The days Monday through Friday that the University's administrative offices are open for business.
- **Complainant:** An individual who has alleged, in writing, that a violation of the Civil Rights

and Sexual Misconduct Policy has occurred.

- **Complaint:** A written description of facts provided by a Complainant that allege a violation of the University's Civil Rights and Sexual Misconduct Policy.
- **Investigation:** A fact-finding inquiry requested by the Affirmative Action Officer/Title IX Coordinator (or designee) that attempts to determine whether a violation of the University's Civil Rights and Sexual Misconduct Policy has occurred. (See Investigation, page 12).
- **Investigator:** An individual or a team of University faculty, administrators, or officials who, at a minimum, receives annual training on the issues related to sexual misconduct. This includes dating violence, domestic violence, sexual assault and stalking, as well as how to conduct an investigation that protects the safety of the Complainant, due process for the Respondent, and promotes accountability. Similarly trained investigators not affiliated with the University may also be used on an as-needed basis.
- **Officer:** The University's Affirmative Action Officer/Title IX Coordinator. For the purposes of these procedures, the terms "Officer" and "Affirmative Action Officer/Title IX Coordinator" are used interchangeably.
- **Preponderance-of-the-evidence standard:** The standard of proof used to determine whether the University's Civil Rights and Sexual Misconduct Policy has been violated. A complaint meets this standard if an investigation determines that it is more likely than not that discrimination, harassment, or sexual misconduct has occurred.
- **Report:** An allegation of a policy violation received by the Title IX Coordinator/Affirmative Action Officer or designee. Reports may come from Responsible Employees, anonymous sources, or any individual who wishes to report a possible policy violation.
- **Respondent:** Person or persons alleged to have violated the Civil Rights and Sexual Misconduct Policy.
- **Responsible Employees:** All faculty, all administrators, and certain designated support staff and student workers as identified in Appendix A.
- **Responsible Finding:** It is more likely than not that a policy violation has occurred.
- **Not-Responsible Finding:** The preponderance of the evidence standard has not been satisfied to hold an individual or individuals responsible.
- **University Official:** Any person who has the authority and duty to take action and respond to particular issues on behalf of the University.
- **Witnesses:** Persons who have information about the alleged discrimination, harassment, or sexual misconduct that will tend to prove, disprove, or otherwise illuminate the investigation of a complaint.

IV. Reporting an Alleged Violation

A. Reporting (General)

As described in (IV)(D)(2) and (3), there are specific reporting responsibilities for faculty, administrators, support staff, student workers ("Responsible Employees"), and students who witness or otherwise have knowledge or should have known of any incidents of alleged discrimination, harassment, and/or sexual misconduct occurring in the University community, including incidents involving student-on-student sexual misconduct.

Individuals who believe that they have been the subject of alleged discrimination, harassment, and/or sexual misconduct committed by faculty, administrators, support staff, and/or students are encouraged to promptly report their allegations to the University pursuant to these procedures, and to report any potential criminal misconduct to Public

Safety and law enforcement. (See page 5 “External Reporting”).

Reporting options are not mutually exclusive; both internal and external reporting options may be pursued concurrently. All reports to the University will be investigated and resolved in a fair and impartial manner, and the University will make an immediate assessment of any risk of harm to the Complainant or to the University community and will take steps necessary to address those risks. These steps may include interim or protective measures to provide for the safety of those involved and the University community.

The University will take prompt and appropriate action in response to all reports in order to end the misconduct, prevent its recurrence, and address its effects regardless of when the alleged misconduct occurred. However, prompt reporting is encouraged because facts often become more difficult to establish as time passes. In cases where the Respondent is no longer enrolled or employed while a complaint is pending, the University will continue its investigation pursuant to these procedures.

The University will promptly address all reported incidents of alleged discrimination, harassment, and/or sexual misconduct. In cases where violations of Title IX are alleged the University will provide both the Complainant and Respondent with notice if the fact-finding investigation and decision-making process will take more than 90 days.

Persons who believe that they have been victims of a violation of the University’s Civil Rights and Sexual Misconduct Policy are encouraged to file a report within 180 calendar days from the most recent occurrence of an alleged violation. Delay in taking action with respect to an alleged violation may foreclose other remedies under federal or state law.

B. Protective Measures

The University will maintain as confidential any accommodations or protective measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

Protective measures may include, but are not limited to:

- Orders of protection, including no-contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court, or by the institution;
- Transportation assistance or security escorts;
- Modifications to academic requirements or class schedules;
- Changes in living or working situations.

C. Basic Elements of a Complaint

An initial report may be written or verbal. In order for a report to become an official Complaint to facilitate an investigation under these Procedures, the Complaint must be written and address the portion of the policy alleged to have been violated. There is no formally required content, but the following elements may be included.

1. Name, status or job title (e.g., student, instructor, administrative assistant), and contact information of the Complainant
2. Name, status or job title (e.g., student, instructor, administrative assistant), and (if known) the contact information of the Respondent(s)

3. A brief statement of the event or events that are the cause of the complaint, including the date(s), time(s) or approximate time(s), location(s), and the names and contact information of any known witnesses. It is important, however, that the individual writing the complaint merely provides the information and does not conduct an investigation into the matter.

D. Responsible Employees/University Contacts for Reporting/Mandated Reporting

1. All faculty and all administrators at the University are considered to be “Responsible Employees” with specific reporting responsibilities under this section. A list of support staff and student worker positions designated as “Responsible Employees” can be found in Appendix A of these Complaint Procedures.
2. A report may be made to the University Affirmative Action Officer/Title IX Coordinator or to any other Responsible Employee, but under no circumstances is an individual required to report discrimination, harassment, and/or sexual misconduct to a supervisor, faculty, or other individual who is the alleged perpetrator. Emergency and after hours situations can be immediately reported to Public Safety.

a) **Title IX Coordinator**

Carrie Lynn
 Civil Rights & Title IX Coordinator
 Wright Administration Building Forum Wing, Room FA171
 812-464-1703
cnlynn@usi.edu

b) **Interim Deputy Title IX Coordinator**

Laurie Berry
 Assistant Dean of Students
 University Center East, Room 1229
 812-464-1862
lberry@usi.edu

c) **Deputy Title IX Coordinator**

Michael Dixon
 Associate Provost for Academic Affairs
 Wright Administration Building, Room 103
 812-465-1095
mdixon@usi.edu

d) **For Emergency or After Hours Reporting: Public Safety**

From your cell phone or outside line: 812-492-7777
 From campus phones: ext. 7777

3. In the interest of maintaining a safe and inclusive environment for all members of the University community, the University **encourages** all faculty, administrators, support staff, and students to promptly report known or suspected violations of any part of the University’s Civil Rights and Sexual Misconduct Policy to the Affirmative Action Officer/Title IX Coordinator or designee.
4. As mandated by federal regulations, the University **requires** all Responsible Employees to promptly report any known or suspected violations of the sexual misconduct portion

of the University's Civil Rights and Sexual Misconduct Policy to the Affirmative Action Officer/Title IX Coordinator or designee, including incidents involving student-on-student sexual misconduct. Failure to make such reports may itself be considered a violation of this policy, and could potentially result in disciplinary action against any individuals who are found to have failed to report knowledge of such incidents. When making such reports, Responsible Employees shall include all known basic elements of a report as described in (IV)(C)(1)(2) and (3) of these Procedures.

Reporting Exceptions: A University employee acting in an official capacity as a professional mental-health counselor (and those acting in that role under the supervision of a professional mental health counselor) and a pastoral counselor who is recognized by a religious denomination as someone who provides confidential mental-health counseling to members of that denomination and whose official responsibilities include providing mental-health counseling to members of the University community are not required to report any information regarding an incident of alleged sexual misconduct to the Affirmative Action Officer/Title IX Coordinator or other Responsible Employee, subject to certain limited exceptions under applicable law designed to protect a student or others from harm. University Health Center Employees are also exempt from reporting under these procedures.

E. False Reporting

It is a violation to file a knowingly false or malicious complaint of an alleged violation of the University's Civil Rights and Sexual Misconduct Policy. Such misconduct subjects the one who has filed a false or malicious complaint to possible disciplinary action.

F. External Reporting

The University's Complaint Procedures are administrative in nature and are separate and distinct from the criminal and civil legal systems. The University encourages individuals to pursue whatever remedies are available to them, both on- and off-campus.

1. Reporting to local law enforcement

In cases involving potential criminal misconduct, the University provides information to individuals to report the misconduct to the law enforcement agency that has jurisdiction over the location where the incident occurred. If a complaint is filed with the University, the individual will be informed of the option to involve University Public Safety or local law enforcement authorities and the option to be assisted by campus authorities in notifying law enforcement if the complainant chooses. Complainants will also be notified of their right to decline to notify these authorities.

If the Complainant chooses to notify law enforcement, it is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order. The University will provide written information on where to obtain forensic examinations. It is also important to note that completing a forensic examination would not require someone to file a police report. Having a forensic examination will help preserve evidence in cases where the victim decides at a later date to file a police report.

In certain instances, the University may need to report potential criminal misconduct to law enforcement authorities even when the Complainant has not decided to do so. Such

circumstances include those in which there is clear and imminent danger or risk to the Complainant and/or the University community, in which a weapon was involved with the incident, or in which the allegations involve sexual misconduct and the Complainant is under the age of consent. The decision to report an incident to law enforcement will be shared with the Complainant.

The University's Complaint Procedures and the legal system work independently from one another and the University will proceed with its process, regardless of action or inaction by outside authorities. If a law enforcement investigation is initiated, the University may pause an investigation briefly at the request of the law enforcement to facilitate their initial evidence gathering. Decisions made or sanctions imposed through these Complaint Procedures are not subject to change because criminal or civil charges arising from the same misconduct are dismissed, reduced, or rejected in favor of or against the Respondent.

The local law enforcement office with jurisdiction over the University's geographic location is the Vanderburgh County Sheriff's Office. Allegations of criminal misconduct occurring in the Evansville city limits can be reported to the Evansville Police Department.

- a) Vanderburgh County Sheriff's Office Command Post
5607 Highway 41 North
Evansville, IN 47711
Non-emergency telephone: 812-421-6201
Emergency telephone: 911
- b) Evansville Police Department
15 Northwest Martin Luther King Jr. Boulevard
Evansville, IN 47708
Non-emergency telephone: 812-436-7896
Emergency telephone: 911

In addition, the Indiana State Police (ISP) has state-wide jurisdiction, and can be contacted by telephone at 812-867-2079 or 800-852-3970. The location of the local ISP District 35 Police Post is 19411 Highway 41 North, Evansville, IN 47725.

2. Reporting to Government Enforcement Agencies

In addition to the University's internal processes and resources, government agencies may also be available to provide resources or investigate allegations of discrimination, harassment, and/or sexual misconduct. It is important to remember that these agencies may require complaints to be filed within certain time frames. Depending on the nature of the complaint, one or more of these agencies may be available to the Complainant. These agencies may be contacted as noted below.

- a) Specifically for students
 - Chicago Office
 - Office for Civil Rights
 - U.S. Department of Education
 - Citigroup Center
 - 500 West Madison Street, Suite 1475

Chicago, IL 60661-4544
 Telephone: 312-730-1560
 Fax: 312-730-1576
 TTY: 800-877-8339

- b) Specifically for faculty, staff, and student workers in matters related to employment discrimination

Indianapolis District Office
 U.S. Equal Employment Opportunity Commission
 101 West Ohio Street, Suite 1900
 Indianapolis, IN 46204
 Telephone: 800-669-4000
 Fax: 317-226-7953
 TTY: 800-669-6820

- c) For all members of the University community

Indiana Civil Rights Commission
 Indiana Government Center North
 100 North Senate Avenue, Room N103
 Indianapolis, IN 46204-2211
 Telephone: 800-628-2909
 Fax: 317-232-6580

Human Relations Commission
 209 Civic Center Complex
 1 N.W. Martin Luther King Jr.
 Boulevard Evansville, IN 47708
 Telephone: 812-436-4927
 Fax: 812-436-4929
 TTY: 812-436-4928

G. Confidentiality of Reports

All reasonable efforts will be made to protect the privacy of all individuals involved in a report of an alleged violation of the University's Civil Rights and Sexual Misconduct Policy, as well as to maintain the confidentiality of the Complaint Process including the investigation, any appeals, and the sanctions imposed (except where prohibited by law). Privacy and confidentiality have distinct meanings under this policy.

1. **Privacy:** Privacy generally means that information related to a Civil Rights and Sexual Misconduct Policy complaint will be shared with a limited circle of University Officials who have a legitimate need to know in order to assist in the review, investigation or resolution of the complaint and with the parties involved in the complaint as necessary for their role in the process. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the complaint.

2. **Confidentiality of the Complaint Process:** The Complaint Process is confidential and information is only divulged on a need-to-know basis. Individuals involved in the process are encouraged to maintain privacy and confidentiality to the best of their ability.

H. Request for Anonymity/Withdrawal of a Complaint

If at any point the Complainant requests confidentiality or that no investigation of an incident be conducted or disciplinary action taken, the University will make all reasonable attempts to respond to the complaint consistent with the Complainant's request. However, the University's ability to investigate and respond to the complaint may be limited by keeping the Complainant anonymous. Moreover, the University has a legal obligation to review all reports and in some cases may be legally required to continue an investigation with or without the Complainant's consent. The Affirmative Action Officer/Title IX Coordinator or Deputy Title IX Coordinator(s), with input from appropriate University officials will weigh the Complainant's request against such factors as:

- whether there have been other complaints of a similar nature against the same Respondent
- whether the Respondent made threats of additional misconduct against the Complainant or others
- whether the misconduct was committed with a weapon
- the University's commitment to provide a reasonably safe and non-discriminatory environment

If the University determines that it is necessary to proceed with the Complaint Process or implement other appropriate measures, the Complainant will be notified by the Affirmative Action Officer/Title IX Coordinator or designee of the University's chosen course of action.

V. Procedures

A. Statement of Fair and Equitable Process

The University will provide written notice to the responding party of the allegation constituting a potential violation of the University's Civil Rights and Sexual Misconduct Policy, including sufficient details and with sufficient time to prepare a response before any initial interviews. Sufficient details include the identities of the parties involved, the specific section of the code of conduct allegedly violated, the precise conduct allegedly constituting the potential violation, and the date and location of the alleged incident. Each party will receive written notice in advance of any interview with sufficient time to prepare for meaningful participation. The investigation will result in a written report summarizing the relevant exculpatory and inculpatory evidence. Both parties and appropriate officials will have timely and equal access to any information that will be used. The University will make reasonable efforts to ensure that both parties to the complaint are treated with respect, dignity, and sensitivity throughout the process, including as applicable:

1. Referrals to appropriate University and community resources and supports such as the University Counseling Center and the Deaconess Concern Employee Assistance Program (EAP).
2. For all parties, the University will make all reasonable efforts to comply with applicable laws and regulations regarding privacy.

3. For any participants in these Procedures who request a disability-related accommodation to fully participate, the University will make all reasonable efforts to provide appropriate accommodations. Information about making such requests will be provided to all participants during the course of a complaint process and any related investigation, and accommodations may be requested by any participant at any point in the process. Such requests will be evaluated on an individual case-by-case basis in a manner that is consistent with current University practices for evaluating reasonable accommodation requests.
4. Informing both parties of the University's policies and of these Complaint Procedures.
5. Providing both parties the opportunity to challenge the appointment of an investigator, an Appeal Officer, if a conflict of interest is present.
6. Allowing the Complainant and Respondent to choose to participate or decline to participate in the Complaint Process, with the understanding that the process will continue without their involvement and that the Affirmative Action Officer/Title IX Coordinator and Deputy Title IX Coordinators will determine an outcome based on the available information.
7. The parties' right to respond to the investigatory report in the form of a written statement prior to the hearing panel making a decision.
8. Notifying both parties of the complaint resolution, including the outcome of any appeal or review. In cases involving allegations of sexual harassment and sexual misconduct that are prohibited by Title IX, the Violence Against Women Act, and the University's Civil Rights and Sexual Misconduct Policy Sections (III)(C) and (D), both parties will receive concurrently, to the extent that is possible, such notices in writing.
9. Allowing both parties to exercise the option to have one advisor of their choice to accompany them at any interviews or other meetings or proceedings associated with these Complaint Procedures. An advisor's sole role is to provide support. The advisor may not speak on behalf of either party at any interviews, meetings or proceedings associated with these Complaint Procedures. However, the advisor may offer advice and other information and guidance directly to a party by requesting a break to speak with their advisee privately. Failure to comply with these rules may result in the removal of the advisor from the process. It is the responsibility of the party to make sure their advisor is present. Advisor availability shall not be sufficient grounds for unreasonably delaying the process.
10. Providing both parties an equal opportunity to present relevant witnesses and evidence.
11. Understanding that information collected through an investigation and/or proceeding may be subpoenaed in a criminal and/or civil proceeding.
12. The University reserves the right to modify these Complaint Procedures to provide for what in its sole opinion, is equitable treatment of the Complainant and Respondent.
13. University employees with contracts have certain due process rights. While these procedures are consistent with these rights, such employees may have additional rights beyond the scope of these Complaint Procedures.

B. Time Frames

The University strives to resolve all reports under these procedures promptly. Extenuating circumstances may arise that affect time frames under these Complaint Procedures. Extenuating circumstances may include but are not limited to such factors as the complexity and scope of the allegations, delays caused by an unsuccessful attempt to achieve an informal resolution, the number of witnesses involved, the availability of the parties or witnesses, the effect of any

concurrent criminal or official government investigation, intervening University breaks or holidays, or other unforeseen circumstances. In cases involving allegations of sexual harassment and sexual misconduct that are prohibited by Title IX, the Violence Against Women Act, and the University's Civil Rights and Sexual Misconduct Policy Sections (III)(C) and (D), both parties will receive concurrently, to the extent that is possible, written notice if the fact-finding investigation and decision-making process will take more than 90 calendar days.

C. Intake and Preliminary Assessment

Upon receipt of a complaint involving an alleged violation of the University's Civil Rights and Sexual Misconduct Policy, the Affirmative Action Officer/Title IX Coordinator or designee will conduct a preliminary assessment of the complaint, taking into consideration the nature of the misconduct, the Complainant's expressed preferences, if any, as to course of action, and the necessity for any interim measures to protect the safety of the Complainant and/or the University community. The University requires that all such complaints received by any University representative, whether a mandated report by Responsible Employees or a voluntary report by other members of the University community, be referred to the Officer or designee for assessment to ensure prompt and equitable response to the misconduct.

To begin the preliminary assessment, the Affirmative Action Officer/Title IX Coordinator or designee will conduct an initial fact-finding process by meeting with the Complainant as soon as possible upon receipt of the complaint to review the complaint and to provide the Complainant with an overview of these Complaint Procedures. As part of this initial meeting, the Officer or designee, as appropriate to the circumstances, will provide written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available, both within the institution and in the community. The Officer will also discuss possible interventions and interim measures. If a written complaint is received, the fact-finding will also include a meeting between the Officer or designee and the Respondent as soon as possible after the initial meeting with the Complainant. The purpose of this meeting will be to inform the Respondent of the complaint, to review any information that may be presented at that time, and to provide an overview of these Complaint Procedures. The Officer or designee will also present the Respondent with referral information to appropriate care and support resources and/or discuss possible interventions and interim measures.

Upon completion of the initial fact-finding, the Affirmative Action Officer/Title IX Coordinator or designee will determine which of the possible actions represent(s) the most appropriate response(s) to the complaint. As deemed appropriate by the Officer, this may also include a recommendation to the appropriate University official or administrator to implement interim measures as described in (V)(D) of these procedures.

1. If both parties agree, an attempt will be made to resolve the issue by informal facilitation, consultation, conflict resolution, or other informal efforts to resolve the issue between the parties.
2. If both parties agree, a recommendation may be made to the parties to pursue mediation as a way to resolve the complaint.
3. A formal investigation of the complaint may be made pursuant to these procedures.

D. Interim Measures

The Affirmative Action Officer/Title IX Coordinator or designee may recommend in response to an alleged violation that the University impose reasonable and appropriate interim measures deemed necessary to protect the safety and well-being of the Complainant and/or the Respondent, as well as the safety and well-being of the University and University community. Decisions about interim measures will be made through a collaborative effort between the Officer and the appropriate University official(s). When appropriate, such decisions will be made in consultation with any involved legal or administrative agency. Interim measures may be imposed at the discretion of the University regardless of whether formal action is sought by the Complainant, but any reasonable requests by any party to the complaint will be taken into consideration when determining what measures are most appropriate. Potential interim measures which may be applied to the Complainant and/or the Respondent include, but are not limited to:

- assistance in accessing counseling services
- issuance of mutual “no-contact” letters to ensure the safety of all parties and the integrity of the process
- rescheduling of exams and assignments
- academic assistance such as providing alternative course completion options, transferring to a different class section, or withdrawing from a course or courses without penalty
- appropriate changes in work or class schedules
- housing assistance, such as changes to on-campus housing location or terms, or assistance with dissolving a housing contract in accordance with housing policies
- restricting an individual’s or organization’s access to certain University facilities or activities pending resolution of the matter
- facilitating a voluntary leave of absence
- providing an escort to ensure safe movement on campus
- implementing either a paid or unpaid mandatory suspension/leave of absence

E. Mediation

Mediation is intended to create an opportunity for individuals to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved in a safe, non-threatening, and non-confrontational environment.

Mediation is a voluntary process intended to allow the parties involved in an alleged violation of the University’s Civil Rights and Sexual Misconduct Policy to discuss their respective understandings of the incident with each other through the assistance of a mediator. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only pursued if both the Complainant and Respondent(s) agree to participate. The Affirmative Action Officer/Title IX Coordinator or designee will make the determination as to whether it is appropriate to offer mediation to the parties of the complaint. Generally, the Officer or designee will first try to informally resolve the issue as described in (V)(C)(2) of these procedures before recommending mediation to the parties.

The Affirmative Action Officer/Title IX Coordinator or designee will initially ascertain the Complainant's interest in pursuing mediation to resolve the complaint. Upon the consent of the Complainant, the Officer or designee will then seek consent of the Respondent(s) to engage in mediation. If consent is not obtained from all parties to the complaint, a formal investigation

pursuant to these Complaint Procedures will be conducted.

Upon the consent of all parties to the complaint, as soon as possible the Affirmative Action Officer/Title IX Coordinator or designee will facilitate a session or series of sessions of mediation, to be conducted by an appropriate University official or external professional who may be engaged by the University for this purpose. Any resolution developed through this informal mediation process must be mutually agreed upon by all parties to the complaint and any such resolution will be documented by the Officer or designee as deemed appropriate to the circumstances. All parties to the complaint will be asked to provide signatures signifying their understanding of and agreement to abide by any such resolution.

Prior to the start of any mediation, the Affirmative Action Officer/Title IX Coordinator, or designee, facilitating the mediation will notify all parties to the complaint of their right to bypass, or end, the mediation process at any time before a mutually agreeable resolution is reached, which shall result in the beginning of a formal investigation into the original complaint.

F. Investigation

In cases where informal resolution methods or mediation are not successful, or are not deemed appropriate for resolving the complaint, the Affirmative Action Officer/Title IX Coordinator or designee will either initiate an investigation or will appoint an investigator or a two-person investigative team (hereafter collectively known as "Investigator") to conduct a reasonable, impartial, and prompt investigation of the complaint. Trained investigators will be chosen based on several factors, including the nature of the complaint, the Investigators area of expertise, and the need to avoid any conflicts of interest.

The Investigator will conduct the investigation based on the unique facts and circumstances of the specific complaint and on information that is discovered through the course of the investigation. This may include interviews as feasible and appropriate with the Complainant(s), Respondent(s), and any witnesses, and the collection of other pertinent evidentiary materials to the extent reasonable and appropriate.

Upon completion of the investigation, the Investigator will prepare a written report summarizing the relevant exculpatory and inculpatory evidence. The Complainant and Respondent parties will have timely and equal access to any information that will be evaluated by the decision making panel.

Once the investigative process is complete, the Title IX Coordinator or designee will notify both the Complainant and Respondent that the report is ready for review. Both parties then have three business days within which to meet with the Title IX Coordinator or designee to view the report. Given the sensitive nature of such investigations, this review must occur in person and in the office of the Officer or designee. Only in special circumstances and at the discretion of the Officer or designee, an alternate location or method of reviewing the investigation with either party may be arranged. If and when the report has been viewed by either or both parties, each party then has three additional business days to provide the Title IX Coordinator or designee with a written response. The Title IX Coordinator or designee will then incorporate any and all written responses into the Final Report. *It is the responsibility of either party to request an opportunity to view and respond to the report within the time frames allotted.* With the exception of extenuating circumstances, *failure to respond in the time described will result in a waiver of the opportunity to view and respond to the report at this point in the process.*

Once the report is final, the evaluative panel consisting of the Affirmative Action Officer/Title IX Coordinator and Deputy Title IX Coordinators will follow a preponderance-of-the-evidence standard to determine whether or not a violation of the University's Civil Rights and Sexual Misconduct Policy has occurred. The evaluative panel reserves the right to speak to the Investigator before making such a determination. In situations where the Officer or one of the Coordinators is unavailable, or in cases involving potential conflict of interest with any panel member, the Officer or designee may identify an alternative University official or a trained investigator, who was not involved in the investigation, to serve as an alternate member of the panel. If it is determined that a violation **has** occurred (Respondent is found Responsible), the complaint will progress to the Administrative Resolution process set forth in Section (V)(G) of these procedures.

G. Administrative Resolutions When a Report is Determined Responsible

If the Investigation results in a determination that there is sufficient evidence to prove that the allegations made in a complaint are more likely than not true, the Complainant and Respondent party will each be notified of that finding. In cases involving allegations of sexual harassment and sexual misconduct that are prohibited by Title IX, the Violence Against Women Act, and the University's Civil Rights and Sexual Misconduct Policy Sections (III)(C) and (D), both parties will receive concurrently, to the extent that is possible, such notice of that finding in writing.

1. Sanctions

Individuals who have been found in violation of the University's Civil Rights and Sexual Misconduct Policy may be subject to a variety of sanctions imposed by the University and/or external agencies. Sanctions imposed by the University will be determined at the conclusion of an investigation on a case-by-case basis by the Affirmative Action Officer/Title IX Coordinator or designee, working in conjunction with the appropriate University official, taking into account such factors as the severity of the violation and any prior disciplinary history of the Respondent. When the Respondent is a student, the dean of students may also be involved in determining sanctions.

Administrative sanctions may include a full range of disciplinary actions, from verbal warnings up to and including termination of employment for faculty, administrators, or support staff, or up to and including dismissal from the University for students.

As determined appropriate, sanctions may also include other measures such as job or work shift reassignment, Employee Assistance Program (EAP) referrals, mandatory diversity training or training of a similar nature, or the time-limited or permanent extension of any interim measures previously implemented under these procedures.

In the event of a responsible finding against a student who is not otherwise employed by the University, the Officer or designee, working in conjunction with the appropriate University official, will determine the appropriate sanctions, considering factors such as the need to eliminate a hostile environment for the victim and others, the facts of the specific incident, any prior disciplinary matters involving the respondent, and any mitigating factors. Sanctions that may be imposed include, but are not limited to, written warnings, loss of privileges, mandatory training or counseling, probation, suspension, or expulsion.

In the event of a responsible finding against a former student or employee who is not otherwise currently affiliated with the University in any way, alternate sanctions may be

considered by the Officer or designee, working in consultation with the appropriate University official.

The Officer or designee, working in consultation with the appropriate University official, will determine on a case-by-case basis whether to delay or to otherwise modify any sanctions during an active appeal or review process.

Some acts committed in violation of the University's Civil Rights and Sexual Misconduct Policy may also be considered a criminal offense under federal or state law. Depending on the nature and severity of the acts, an individual may be subject to prosecution. An individual could be sanctioned by the University and also be criminally prosecuted for the same misconduct, if warranted.

2. Restorative Measures

Complainants who are determined to have been subjected to a violation of the University's Civil Rights and Sexual Misconduct Policy may have restorative measures taken on their behalf by the University. Any such restorative measures will be determined on a case-by-case basis through the coordinated efforts of the Affirmative Action Officer/Title IX Coordinator or designee working in conjunction with the appropriate University official, taking into account such factors as the severity of the violation, any negative impacts experienced by the Complainant, and whether or not reasonable actions can be taken to help restore the Complainant to a status equivalent to a person who has not been subject to a violation of the University's Civil Rights and Sexual Misconduct Policy.

Restorative actions may include time-limited or permanent extensions of any interim measures previously implemented under these procedures, or other measures determined by the University to be reasonable attempts at restoring the Complainant.

3. Other Corrective Measures

In some cases, an investigation of a responsible finding may uncover systematic issues within the larger operations of the University that warrant corrective measures in addition to or instead of individual sanctions or restorative measures. Examples of other corrective measures may include but not be limited to the creation of new policies, the revisions of existing policies, or the development of specialized training programs for University faculty, administrators, support staff, and/or students. Decisions about other corrective measures will be made on a case-by-case basis through the coordinated efforts of the Affirmative Action Officer/Title IX Coordinator or designee, working in conjunction with the appropriate University official.

H. Administrative Resolutions for a Not-Responsible Finding

If the preponderance of the evidence standard has not been satisfied to hold an individual or individuals responsible, the Complainant and Respondent will each be notified of that finding, that the case will be dismissed, and that any interim measures implemented during the investigation will be discontinued as soon as practical. In cases involving allegations of sexual harassment and sexual misconduct that are prohibited by Title IX, the Violence Against Women Act, and the University's Civil Rights and Sexual Misconduct Policy Sections (III)(C) and (D), both parties will receive concurrently, to the extent that is possible, such notice of that finding and its implications in writing.

I. Appeal and Review Procedures

Either party may appeal the finding of the investigation if: (1) a substantial procedural error occurred during the investigative process; or (2) new substantially material evidence has come to light, which has the likelihood of changing the findings made by the investigator, and which was not reasonably available prior to the issuance of the final investigation report.

Requests for appeal must be submitted in writing to the Title IX Coordinator/Affirmative Action Officer or designee within five (5) business days following delivery of the written notice of outcome and must include the grounds for appeal. Appeals are heard by the Executive Director of Human Resources or designee (the "Appeal Officer") and will be strictly limited to the grounds as outlined above.

If the appeal is denied, the matter will be closed, and the outcome set forth in the notice of outcome will be final. If the appeal is granted, the Appeal Officer or designee may: (1) remand the case for a new investigation (the results of the new investigation, including the finding(s) and sanction (s) will be final and not subject to further appeal); or (2) if, due to the discovery of new substantially materially evidence not reasonably available at the time of the initial investigation, return the matter to the investigator(s) for additional investigation in light of the new evidence.

The Appeal Officer or designee will provide a written decision regarding the outcome of the Appeal to the Title IX Coordinator/Affirmative Action Officer or designee who will simultaneously notify both parties within a reasonable period of time. The decision of the Appeal Officer or designee regarding the appeal will be final.

VI. Notification and Point of Contact

It will be the responsibility of the Affirmative Action Officer/Title IX Coordinator or designee to act as the primary point of contact for all parties of a complaint throughout the process, including during any appeal. The Officer or designee will also pursue reasonable efforts to ensure that the Complainant and the Respondent are kept apprised of the status of the investigation and any appeals or reviews throughout the process. At a minimum, both will be notified as follows.

A. Intake and Preliminary Assessment

1. Upon receipt of the complaint, the Officer will notify the Respondent that a complaint has been received in which the Respondent is the subject.
2. Both parties will receive notifications of the outcome of the Preliminary Assessment, and as appropriate will be advised of any resolutions to the complaint that have been achieved informally, that mediation is an option, that an investigation will be pursued, or that the complaint will be dismissed because it does not represent a violation of the University's Civil Rights and Sexual Misconduct Policy. In cases involving allegations of sexual harassment and sexual misconduct that are prohibited by Title IX, the Violence Against Women Act, and the University's Civil Rights and Sexual Misconduct Policy Sections (III)(C) and (D), both parties will receive concurrently, to the extent that is possible, such notice of the outcome in writing.
3. Following the receipt of a complaint involving a reportable crime under the Clery Act, the Officer will promptly notify the University official currently responsible for Clery reporting.

B. During and at the Conclusion of the Investigation

1. In the event the Title IX process will exceed 90 calendar days, the Officer or designee will concurrently notify the Complainant and Respondent in writing of the reason(s) for any delay and an estimate of the adjusted time frame.
2. At the conclusion of the investigative process, both parties will receive notifications of the outcome of the investigation. In cases involving allegations of sexual harassment and sexual misconduct that are prohibited by Title IX, the Violence Against Women Act, and the University's Civil Rights and Sexual Misconduct Policy Sections (III)(C) and (D), both parties will receive concurrently, to the extent that is possible, such notice in writing.
3. In cases of alleged sexual misconduct or as otherwise may be required by law, both parties will be allowed to review the investigation with the Officer or designee, provided that a timely request to do so is submitted as described in these procedures. Investigations will otherwise be treated as confidential and will not be made available to either party.
4. To the extent required by applicable laws, both parties will be made aware of any sanctions taken against the Respondent, restorative actions being offered to the Complainant, or any other administrative responses or actions taken by the University as a result of a responsible finding.

C. Appeal and Review

1. Written requests from either party for an appeal must be submitted to the Officer or designee, who will forward them to the appropriate party.
2. The non-appealing party will be notified promptly when a request for an appeal has been filed.
3. Both parties will be notified concurrently in writing of the outcome. To the extent required by applicable laws, both parties will be made aware of any sanctions or administrative responses or actions taken as a result of a proceeding.

VII. Record Retention

During the procedures, the complaint and all documents will be kept confidential, except that the appropriate University officials will be kept informed. After the final step in the preceding process is completed, the file containing all documentation in the complaint will be sent to the Affirmative Action Officer/Title IX Coordinator or designee and retained in a secure file with access limited to the appropriate University official(s). However, all determinations of violations of the University's Civil Rights and Sexual Misconduct Policy and all sanctions imposed will be added to the Respondent's personnel and/or student file.

VIII. The University's Reporting Obligations

- A. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"), first signed into law in 1990, is a federal law that requires colleges and universities, both public and private, participating in federal student aid programs to disclose campus safety information, and imposes certain basic requirements for handling incidents of sexual assault, stalking, domestic violence, and dating violence. The responsibilities mandated by the Clery Act include but are not limited to the requirement that the University must report specific crimes, which occur on campus, adjacent to campus, or off-campus when associated with the institution and school safety policies. This information is available

each year in an Annual Security Report (ASR), which can be found on the University's website. The Clery Act also requires schools to have timely warning when there are known risks to public safety on campus. The Clery Act requires reported crime statistics to protect the confidentiality of the victim while alerting the public to possible safety risks or incidents on campus.

B. Family Educational Rights and Privacy Act (FERPA)

1. The outcome of a campus proceeding is part of the educational record of the Respondent, if the Respondent is a student, and the employee record if the Respondent is a faculty or staff member. Generally speaking, the educational records of students are protected from release under a federal law, FERPA (20 U.S.C. § 1232g; 34 CFR Part 99). The University complies with FERPA regulations regarding the privacy of student records and observes the following exceptions to FERPA:
 - a) The Complainant(s) in a non-consensual sexual contact/intercourse **incident involving a student Respondent** has/have the right to be informed of the finding, and sanction(s) of the investigation or proceeding, in writing, without condition or limitation.
 - b) The Complainant(s) in sexual exploitation, sexual harassment, stalking, relationship violence and any other gender-based offense **involving a student Respondent** has the right to be informed of the finding, in writing, and to be informed of any sanction(s) that are directly relevant to their circumstances, and to essential facts supporting the outcome when the outcome is "responsible" (and the underlying offense is a crime of violence as defined below and in 34 C.F.R. 99.39) and/or it is equitable to share the essential findings with all parties.
 - c) FERPA permits the University to release publicly the name, nature of the violation and the sanction(s) for any student who is found in violation of a University policy that is a "crime of violence," including: arson, burglary, robbery, criminal homicide, sex offenses, assault, intimidation (which may encompass stalking and/or bullying), hazing, destruction/damage/vandalism of property and kidnapping/abduction. The University will release this information to the Complainant in any of these offenses regardless of the outcome.
2. FERPA allows for the release of student records beyond the exceptions listed above. For example, records can be subpoenaed by a court of law or may be released to a third party with the student's permission.

IX. Care and Support Resources

The University is committed to treating all members of the community with dignity, care, and respect. Any individual who experiences or is affected by discrimination, harassment or sexual misconduct, whether as a Complainant or a Respondent, may benefit from access to care and support resources through the University and the local community.

The University encourages all individuals to seek the support of and use all available internal and external resources, regardless of when or where the incident occurred. The following is a non-exhaustive list of such resources that are available to the members of the University community.

A. Resources Specifically for USI Students

- University of Southern Indiana Counseling Center
Orr Center 1051
Telephone: 812-464-1867
- University of Southern Indiana Religious Life
Residence Life Resource Center
Telephone: 812-464-1871
- University of Southern Indiana Housing & Residence Life
Your Resident Assistant or Area Coordinator
Telephone: 812-468-2000
- University of Southern Indiana Dean of Students Office
University Center East 1229
Telephone: 812-464-1862

B. Resources Specifically for Benefits-Eligible Faculty and Staff

- Deaconess Concern Employee Assistance Program
445 Cross Pointe Boulevard
Cross Pointe, Suite 330
Evansville, IN 47715
Telephone: 812-471-4611 or 800-874-7104

C. Resources for all Members of the University Community

- University of Southern Indiana Health Center
Health Professions 091
Telephone: 812-465-1250
- Albion Fellows Bacon Center
P.O. Box 3164
Evansville, IN 47731
Telephone for Domestic Violence 812-422-5622
Telephone for Sexual Assault 812-424-7273
Toll-free: 800-339-7752
- YWCA Evansville
118 Vine Street
Evansville, IN 47708
Telephone: 812-422-1191 or 866-367-9922
- Holly's House
750 North Park Drive
Evansville, IN 47710
Telephone: 812-437-7233

- Lampion Center
655 South Hebron Ave
Evansville, IN 47714
Telephone: 812-471-1776
- Southwestern (Behavioral Health)
415 Mulberry Street
Evansville, IN 47713
Telephone: 812-423-7791
24 Hour Suicide Hotline: 812-422-1100

APPENDIX A: CIVIL RIGHTS AND SEXUAL MISCONDUCT PROCEDURES FOR COMPLAINT REPORTING AND RESOLUTION

In addition to all faculty and all administrators at the University, the following support staff and student worker positions are designated as “Responsible Employees” with specific reporting responsibilities under the University’s Civil Rights and Sexual Misconduct Procedures for Complaint Reporting and Resolution.

- a. Resident Assistants (RAs)
- b. All Public Safety Staff, including:
 - i. Public Safety Officers
 - ii. Sergeant
 - iii. Staff Sergeant
 - iv. Dispatcher
 - v. Senior Administrative Assistant
- c. Dean of Student’s Office:
 - i. Senior Administrative Assistant
 - ii. Administrative Assistant
 - iii. Graduate Assistant