I. Policy Statement

The University of Southern Indiana ("University" or "USI") embraces and celebrates the many differences that exist among the members of a dynamic, intellectual and inclusive community, and strives to maintain an environment that respects differences and provides a sense of belonging and inclusion for everyone. Any form of unlawful discrimination or harassment, including sexual or gender-based harassment, sexual assault, sexual exploitation, dating violence, domestic violence or stalking, will not be tolerated. The University is prepared to take prompt action to prevent and correct behavior that violates this Policy and to remedy its effects.

The University prohibits all forms of sexual misconduct and relationship violence (regardless of the gender of those involved). The University has jurisdiction over and complies with all applicable federal and state laws as amended, including but not limited to Title IX of the Higher Education Amendments Act of 1972 (Title IX) and the Violence Against Women Reauthorization Act of 2013 (VAWA).

The focus of this policy is the protection of educational opportunity for students at the University. For faculty, administrators and support staff, compliance with this Policy is a term and condition of employment with the University. For students, compliance with this Policy is a term and condition of enrollment at the University.

II. Title IX Coordinator

The Title IX Coordinator oversees the University’s compliance with Title IX and other applicable federal and state laws; including the review, investigation, and resolution of reports of violations of this Policy, as well as the coordination of primary and ongoing training programs and education to: (1) promote the awareness of sexual and gender-based harassment, sexual assault, sexual exploitation, dating violence, domestic violence and stalking; and (2) to prevent such behavior. The Title IX Coordinator may designate other University personnel or external consultants to assist and support compliance efforts or to act as a designee in cases of conflict of interest or in other situations where a designee is deemed necessary to maintain the University’s compliance under this Policy and applicable state and federal law.

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III. Definitions

A. Sexual Harassment. Sexual Harassment is unwelcome conduct of a sexual nature that a reasonable person would find so severe, persistent or pervasive, that it creates a hostile learning, working or living environment, thereby unreasonably interfering with a person’s ability to learn or work, or to access or participate in the University’s programs or activities, and the conduct has no legitimate relationship to the subject matter of an academic course, activity, or research. Sexual harassment includes sexual advances or conduct, requests for sexual favors, or other conduct of a sexual nature when: (1) submission to or rejection of such conduct is made, explicitly or implicitly, a basis for an academic or employment decision, or a term or condition of either, or a term or condition for participation in any University program or activity (often referred to as “quid pro quo” harassment”); or (2) such conduct is sufficiently severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with or eliminating access to programs and activities because it creates an intimidating, hostile, humiliating or sexually offensive learning, living, or working environment. Examples may include but are not limited to:
  1. attempting to coerce an unwilling person into a sexual or romantic relationship
  2. subjecting a person to unwelcome sexual attention
  3. punishing a refusal to comply with a sexual based request
  4. conditioning a benefit on submitting to sexual advances
  5. making non-consensual obscene comments of a sexual nature about or to an individual

B. Gender-Based Harassment. Gender-Based Harassment is unwelcome conduct based on sex or gender (including harassing conduct based on one’s failure to conform to sex stereotypes), that a reasonable person would find so severe, persistent or pervasive, that it creates a hostile learning, working or living environment, thereby unreasonably interfering with a person’s ability to learn or work, or to access or participate in the University’s programs or activities, and the conduct has no legitimate relationship to the subject matter of an academic course, activity, or research. Such harassment can be physical, written, verbal, or visual and other nonverbal actions. Gender-based harassment is prohibited regardless of the actual or perceived gender identity or sexual orientation of the individuals involved.

C. Sexual Assault

1. Non-Consensual Sexual Intercourse or Attempted Sexual Intercourse. Non-Consensual Sexual Intercourse or Attempted Sexual Intercourse is any form of sexual intercourse (anal, oral, or vaginal) however slight, or attempted sexual intercourse, without consent. Intercourse means penetration by a penis, object, tongue, or finger, and oral copulation by mouth-to-genital contact or genital-to-mouth contact.

2. Non-Consensual Sexual Contact. Non-Consensual Sexual Contact is any intentional sexual
touching, or attempted sexual touching, without consent. Intentional sexual contact includes contact with the breasts, buttocks, groin, genitals, mouth, or touching another with any of these body parts, or making another person touch any of these body parts; any intentional bodily contact in a sexual manner; any disrobing of another or exposure to another without consent.

3. **Incest.** Incest is non-consensual sexual intercourse or attempted sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

4. **Statutory Rape.** Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

D. **Relationship Violence.** Relationship Violence is physical or sexual violence, or the threat of such violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship will be determined based upon the information provided by complainant and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Relationship Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Relationship Violence does not include acts covered by the definition of domestic violence found below.

E. **Sexual Exploitation.** Sexual Exploitation occurs when an individual takes non-consensual sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses described in this Policy. Examples of sexual exploitation may include, but are not limited to:

1. invading another’s sexual privacy
2. prostituting another individual
3. making non-consensual videos, audio recordings or photographs of sexual activity
4. going beyond the boundaries of consent (such as letting one’s friends hide in the closet to watch consensual sex)
5. engaging in voyeurism
6. knowingly transmitting a Sexually Transmitted Infection (STI) or HIV to another individual
7. exposing one’s genitals in non-consensual circumstances or inducing another to expose one’s genitals

F. **Stalking.** Stalking is engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress.

1. **Course of conduct** means two or more acts, including, but not limited to, acts in which the person directly, indirectly or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.
2. **Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
3. **Reasonable person** means a person under similar circumstances and with similar identities to the complainant.
4. Examples of stalking may include, but not be limited to:
   i. initiating non-consensual communication such as face-to-face communication, telephone calls, voice messages, e-mails, text messages, letters, notes, gifts, or any other communications that are undesired and cause fear
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ii. using online, electronic or digital technologies to make unauthorized postings of pictures, messages, and/or information about the victim on social networking sites or other internet sites
iii. pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom or other places frequented by the victim
iv. conducting surveillance or other types of observation, including staring or “peeping,” or using Global Positioning Systems (GPS) to monitor a victim
v. making verbal or physical threats

IV. Additional Definitions Applicable to this Policy

A. Consent. Consent is a clear, knowing and voluntary agreement to participate in a given activity. To give consent, individuals must be awake, of legal age, and have the capacity to reasonably understand the nature of their actions. Individuals who are incapacitated cannot give consent. Consent is active, not passive; silence, in and of itself, cannot be interpreted as consent. Consent can be given by words, conduct or actions, as long as those words, conduct or actions create mutually understandable, clear permission regarding willingness to engage in (and the conditions of) sexual activity. Individuals may not use force or coercion as a method for obtaining consent. Consent may be withdrawn by either person at any time, and once withdrawal of consent is expressed, the sexual activity must stop. Consent to any one form of sexual activity does not automatically imply consent to engage in any other forms of sexual activity. Previous relationships or prior consent to engage in sexual activity with any individual does not automatically imply consent to engage in future sexual acts with the same or other individuals.

1. Incapacitation. Incapacitation is a state in which one cannot make rational, reasonable decisions because one lacks the capacity to give knowing and voluntary consent (i.e., to understand the “who, what, when, where, why or how” of one’s sexual interaction). Sexual activity with someone whom one should know to be, or based on the circumstances, should reasonably have known to be, incapacitated (e.g., by alcohol or other drug use, by a state of unconsciousness or by an apparent or known mental or cognitive disability) constitutes a violation of this Policy.

2. Force. Force is the use of physical violence and/or physically imposing one’s self on another to gain sexual access. Force also includes threats or implied threats, or other forms of intimidation that overcome resistance or produce consent.

3. Coercion. Coercion is unreasonable and continued pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure one uses to get consent from another. Pressure that continues beyond the following points can be considered coercive:
   i. when one makes it clear to another that one does not want sex
   ii. when one makes it clear to another that one wishes to stop sexual behavior that has already begun
   iii. when one makes it clear to another that one does not want to go past a certain point of sexual interaction

V. Consensual Relationships

The University’s educational mission is promoted by professionalism in the faculty-student and supervisor-employee relationships. This professionalism is fostered by an atmosphere of mutual trust and respect. Actions of faculty or supervisors that harm this atmosphere undermine
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professionalism and hinder fulfillment of the University's mission. The roles of educator and supervisor include authority to direct other persons for educational and operational purposes of the University, and also include a responsibility not to deploy that authority in other ways or for other purposes.

A. Faculty-Student Consensual Relationships: Faculty may not engage in sexual or romantic relationships with students subject to their supervision, even if both parties have consented to the relationship. The potential for a power differential exists in any relationship involving students and faculty. This may happen in the context of grades, praise or criticism, evaluations; in making recommendations for future employment; or conferring other benefits. Given the fundamentally asymmetric nature of and the "power differential" inherent in such relationships, any appearance of voluntary consent on the part of the student is suspect. Moreover, other students and faculty members may be affected by such unprofessional behavior because it places the faculty member in a position to advance or favor one student's interests at the expense of others, and implicitly makes obtaining benefits contingent on sexual favors.

The University views it as unethical and a violation of this Policy for faculty members to engage in sexual or romantic relationships with students who are enrolled in their classes or subject to their supervision, even when both parties appear to have consented to the relationship.

Sexual or romantic, consensual relationships between students and faculty members occurring outside the instructional context are also suspect by nature and may lead to difficulties. Particularly when the student and the faculty member are in the same academic unit or in units that are academically allied, relationships that both parties view as consensual may appear to others as exploitative. Further, in such situations (and in others that may occur in the future, which neither party can anticipate), the faculty member may face serious conflicts of interest. In certain instances, it may be necessary for a faculty member to withdraw from participation in activities or decisions that tend to reward or penalize the student involved. A faculty member who fails to recognize such conflicts of interest and fails to withdraw accordingly risks rewarding or penalizing a student with whom the faculty member has had a sexual or romantic relationship. In such cases, a faculty member's ethical obligations to the student, to colleagues and to the institution have been violated. Moreover, actions that occur after the breakup of such relationships may cause problems (e.g., the lack of favorable recommendation for the student from the faculty member) and therefore may be viewed as retaliation for "breaking up" and may be actionable.

B. Supervisor-Employee Consensual Relationships: Supervisors may not engage in sexual or romantic relationships with employees subject to their supervision, even when both parties appear to have consented to the relationship. Supervisors exercise power over employees in all terms and conditions of employment, including the evaluation of performance or making recommendations for future employment. Sexual or romantic relationships between a supervisor and an employee reporting either directly or indirectly to the supervisor are prone to abuse because the supervisor has professional responsibility for and thus power over the employee. Such situations greatly increase the potential for abuse of this power and sexual exploitation of the employee.

Given the fundamentally asymmetric nature of and the "power differential" inherent in such relationships, any appearance of voluntary consent on the part of the employee is suspect. Moreover, other employees may be affected by such unprofessional behavior because it places the supervisor in a position to advance or favor one employee's interests at the expense of others, and implicitly makes obtaining employment or other terms and conditions of employment contingent on amorous or sexual favors.
C. **Other Consensual Relationships:** When administrators, support staff or students assume instructor roles or other responsibilities that include the exercise of influence and/or power over other individuals, consensual relationships with those individuals may be prohibited. Examples of these types of situations may include but are not limited to:

1. a lab assistant or graduate assistant (GA) who assigns grades
2. residential assistants (RAs) who report policy violations
3. a student teacher or tutor
4. an administrator who serves as an advisor to a student organization

VI. **Reporting Obligations**

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 this Policy to the Title IX Coordinator or designee. Please see the Complaint Procedures for more information regarding reporting options.

A. **Mandated Reporting of Sexual Misconduct:** The University requires all faculty, all administrators, and certain designated support staff and student workers (collectively known as “Responsible Employees,” as defined in Appendix A) to promptly report any known violations of this Policy to the Title IX Coordinator or designee. 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.

B. **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), University Health Center employees and pastoral counselors are not required to report any information regarding alleged violations of this Policy to the Title IX Coordinator or designee, subject to certain limited exceptions under applicable law designed to protect a student or others from harm.

VII. **Complaint Resolution**

The University has adopted Complaint Procedures to provide a prompt and equitable method for reporting, investigating, and resolving complaints of alleged violations of this Policy. The Complaint Procedures can be found online at www.usi.edu/sexual-assault-prevention-and-response.

VIII. **Third-Party Violations of this Policy**

Violations of this Policy committed on University property by third-parties (e.g. vendors, contractors, campus visitors) are prohibited. The University will strive to do whatever it reasonably can to stop such behavior and prevent its reoccurrence. Responsible Employees who are aware of third-party violations of this Policy must promptly make the University aware of such behavior by contacting the Title IX Coordinator or designee.

X. **General Provisions**

**Amnesty for Victims of Sexual Misconduct and Witnesses:** Reporting sexual misconduct and relationship violence is important. The University recognizes that an individual who reports sexual misconduct and/or relationship violence may be engaged in under-age drinking or drug use or other prohibited conduct at or near the time of the incident reported. To encourage reporting under these circumstances, the University will not take disciplinary action against a student reporter, student witnesses,
complainant or respondent for their personal use of alcohol or drugs or for other prohibited conduct at or near the time of the incident reported if such violations do not or did not subject other people to harm. Depending on the circumstances, similar consideration may be given to employee victims and employee witnesses.

A. Bystander Intervention: Bystander intervention is defined as safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of sexual misconduct, including dating violence, domestic violence, sexual assault or stalking. Bystander intervention includes:
   1. Recognizing situations of potential harm;
   2. Understanding institutional structures and cultural conditions that facilitate violence;
   3. Overcoming barriers to intervening;
   4. Identifying safe and effective intervention options; and
   5. Taking safe action to intervene. Individuals should always carefully evaluate the situation and only intervene if safe to do so. Individuals are always encouraged to promptly call 911 or Public Safety at 7777 or 812-492-7777 for assistance.

B. Risk Reduction. Risk reduction is defined as options designed to decrease perpetration and bystander inaction, increase empowerment in order to promote safety, and help individuals and communities address conditions that facilitate violence.

XI. Retaliation Prohibited

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 this 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 for making a complaint or for cooperating in an investigation should promptly contact the Title IX Coordinator or designee.

APPENDIX A

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 Sexual Misconduct and Relationship Violence Policy.

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
   vi. Graduate Assistant
   vii. Student Worker
c. Dean of Student’s Office:
   i. Senior Administrative Assistant
   ii. Administrative Assistant
   iii. Graduate Assistant
   iv. Case Worker
As mandated by federal regulations, the University requires all Responsible Employees to promptly report any known or suspected violations of the Sexual Misconduct and Relationship Violence Policy to the Affirmative Action Officer, Title IX Coordinator or designee. Failure to make such reports may itself be considered a violation of the Sexual Misconduct and Relationship Violence 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, including:

- Name, status or job title (e.g., student, instructor, administrative assistant) and contact information of the Complainant;
- Name, status or job title (e.g., student, instructor, administrative assistant) and the contact information of the Respondent(s) if known; and
- A description of the behavior alleged to have violated the University’s Sexual Misconduct and Relationship Violence Policy (including, known or approximate date(s) and time(s), location(s), and names and contact information of any known witnesses).

It is important, however, that the Responsible Employee merely provides the information and does not conduct an investigation into the matter.