

# Procedures for Resolving Complaints of Discrimination and Harassment

## Date

3/24

## I. Introduction

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 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.

Any employee, student, campus visitor or person participating in a University activity, whether on or off campus, who has experienced or witnessed Discrimination and/or Harassment is encouraged to report the incident(s) promptly. Prompt reporting of complaints is vital to the University’s ability to resolve the matter.

The University has an obligation to respond to information of which it becomes aware, whether received directly or indirectly. That is, the University’s obligation may be triggered by a direct disclosure by those who have experienced potential Discrimination or Harassment or by gaining indirect knowledge of such information. For this reason, the University may initiate an investigation of circumstances that involve potential Discrimination and/or Harassment even where no complaint, formal or informal, has been filed. In those circumstances, the University may elect to investigate and, if warranted, impose disciplinary sanctions pursuant to these or other established University procedures.

A Complainant may elect to invoke either the Informal or Formal Resolution Process. If the Complainant finds that initial informal efforts are unsatisfactory, the Complainant may then seek formal resolution. A Complainant is not required to proceed with informal resolution before seeking formal resolution.

## II. Scope and Jurisdiction

These Procedures outline the resolution processes that will be used to resolve and/or investigate a report of Discrimination and related Harassment committed against a student, employee, or a person participating in or attempting to participate in a program or activity of the University of Southern Indiana under the University’s [Equal Opportunity and Non-Discrimination Policy \(F.3\)](#). Additionally, these procedures will address Sexual Misconduct matters not considered a Title IX Harassment matter, including Relationship Violence, Sexual Exploitation, Sexual Harassment, Sexual Violence and Stalking as defined under the [Sexual Harassment Policy \(F.1\)](#) that occur off-campus, at study abroad programs, and/or online when the conduct affects a substantial University interest.

These Procedures apply to all complaints of Discrimination and Harassment, whether the Parties are students, recognized student organizations, employees, volunteers, campus visitors or persons participating in or attempting to participate in a University activity. Employees who are students involved in activities subject to these Procedures may be treated as students, employees or both at the sole discretion of the University.

These Procedures govern conduct that occurs on and/or off campus or that impacts the educational or work experience of a member of the USI community. In particular, off-campus conduct is subject to these Procedures if 1) the conduct occurred in the context of an education program or activity of the University, or 2) the conduct has or had continuing adverse effects on campus or in an off-campus education program or activity. However, Title IX Harassment matters are addressed under the Sexual Harassment Policy.

In matters involving alleged criminal conduct, the Complainant may notify, or decline to notify, local law enforcement at any time. The University may also make an independent determination to notify law enforcement and/or other authorities based on the nature of the complaint.

### III. Definitions

**Affirmative Action Officer** is at least one official designated by the University to ensure compliance with Title VI and Title VII and the University's Affirmative Action Programs.

**Appellate decision-maker** refers to the individual(s) authorized to hear appeals of findings or dismissals. The appellate decision-maker may be an employee or may be a person external to the University. The appellate decision-maker will not be the same person as the decision-maker in a case.

**Complainant(s)** is person or persons (1) employed by, consulting with or contracting with the University or (2) participating in or attempting to participate in a University of Southern Indiana program or activity who is making a complaint under the Informal Resolution Process or the Formal Resolution Process.

**Days** means calendar days

**Decision-makers** refers to the individuals trained on University policies and procedures and are authorized to determine findings and sanctions.

**Eligible Designee** is an individual to whom the Title IX Coordinator and Affirmative Action Officer delegates their authority under these Procedures. All Eligible Designees must receive appropriate annual training.

**Equity Panel** refers to a meeting conducted by the decision-makers to review relevant information and/or hear statements provided by the parties and the University Investigator prior to rendering a finding(s).

**Education program or activity** means locations, events, or circumstances where the University exercises substantial control over both the Respondent and context in which discrimination or harassment occurs. This includes any building owned or controlled by a student organization that is officially recognized by the University.

**Formal Complaint** means a document filed and signed by a Complainant or signed by the Title IX Coordinator and Affirmative Action Officer alleging Prohibited Conduct and requesting to proceed utilizing the Formal Resolution process pursuant to these Procedures.

**Formal Complaint Process** is the process for resolving complaints of discrimination and/or harassment set forth in these Procedures. The Formal Resolution Process involves the filing of a Formal Complaint, an investigation, a determination as to whether University Policy has been violated and, as appropriate, the imposition of sanctions and remedial measures.

**Informal Complaint** means a document filed by a Complainant requesting to proceed utilizing the Informal Resolution process pursuant to these Procedures.

**Informal Complaint Process** is the process for resolving complaints of discrimination and/or harassment set forth in these Procedures. The Informal Resolution Process is designed to empower the parties to an Informal Complaint to a mutually satisfactory agreement.

**University Investigator(s)** means the person(s) assigned to conduct the investigation upon the signing of a Formal Complaint that is proceeding under the Formal Resolution process. The Investigator(s) may be an employee or may be a person external to the University.

**Parties** include the Complainant(s) and Respondent(s), collectively.

**Policies** refer to the University's policies on Sexual Harassment (F.1), Amorous Relationships (F.2) and Equal Opportunity and Non-Discrimination (F.3).

**Preponderance of the Evidence** is a standard of proof where it is more likely than not that a policy violation occurred.

**Procedures** refer to the procedures set forth in this document.

**Regulations Governing Student Conduct** refer to the rules and procedures that govern student conduct and disciplinary action as set forth by the Dean of Students Office.

**Respondent(s)** means an individual(s) who has been reported to be the perpetrator(s) of conduct that could constitute Prohibited Conduct under University Policy.

**Responsible Employee** refers to all faculty and staff of the University that are not deemed Confidential Resources as noted in Section V. These employees have a duty to report any and all information related to Sexual Harassment.

**Sexual Harassment Policy** is the University's policy on **Sexual Harassment (F.1)**

**University** means any campus unit, program, association or entity of the University of Southern Indiana.

**University-Initiated Investigation** means an investigation initiated by the University in the absence of a Formal Complaint submitted by a Complainant. In a University-Initiated Investigation, a Respondent will be provided with written notice of the allegations forming the basis of the University-Initiated Investigation, and these Formal Resolution Process will govern such investigations to the greatest extent practicable.

**University Investigator(s)** person(s) appointed by the Title IX Coordinator and Affirmative Action Officer to investigate a Formal Complaint pursuant to the Formal Resolution Process. Any individual designated to conduct an investigation must receive appropriate annual training. A University Investigator may be a University employee or an external professional.

**Witness** is anyone with relevant information about an incident. Character witnesses who do not have relevant information about the incident are not considered witnesses.

## IV. General Provisions

### Presumption of Innocence and Burden of Proof

These Procedures presume that the Respondent is not responsible for the alleged discrimination or harassment unless and until the Respondent is determined to be responsible for a violation of the **Equal Opportunity and Non-Discrimination Policy**. The University will use the Preponderance of the Evidence Standard, which means the University's decision-maker(s) must establish that the Respondents alleged violation of Policy "more likely than not" occurred.

### Delegation

The Title IX Coordinator and Affirmative Action Officer may delegate their authority under these Procedures to an Eligible Designee.

## Requests for Anonymity or No Action

Every effort will be made to protect the privacy interests of the persons involved in a manner consistent with the need for a thorough review of a report or Complaint.

The Vice President for Government Affairs and General Counsel shall evaluate all requests by the Complainant that their name or other identifiable information not be shared with the Respondent or that the University take no formal action in response to a report.

The Vice President for Government Affairs and General Counsel will assess requests for the University to take no formal action by examining the seriousness of the reported conduct, whether the reported misconduct was perpetrated with a weapon, the respective ages and roles of the Complainant and Respondent, whether there have been other reports of Discrimination or Harassment by the Respondent, whether the University possesses other means to obtain relevant evidence, whether the report reveals a pattern of perpetration at a given location or by a particular group, and the rights of the Respondent to receive notice and relevant information before disciplinary action is initiated. The University will honor the Complainant's request to the extent possible based on a careful balancing of the request with any legal reporting requirements, the risk of harm to any individual, and the University's duty to maintain a safe and non-discriminatory environment for all. The Title IX Coordinator and Affirmative Action Officer will notify the Complainant of that decision.

If the University honors the request for anonymity, the University's ability to investigate the incident and pursue disciplinary action against a Respondent may be limited. The University will take other appropriate steps to eliminate any such Discrimination or Harassment, prevent its recurrence and remedy its effects on the Complainant and the University community. Those steps may include offering appropriate remedial measures to the Complainant and/or providing targeted training and prevention programs.

If the University is unable to honor the request for anonymity or the request to take no formal action in response to a report, the University may be obligated to move forward with a University-Initiated Investigation and potential disciplinary action if there is an individual or public safety concern and sufficient independent information exists to establish that one or both of the Policies has been violated.

## Supportive Measures

The University offers a wide range of resources for students and employees, whether as Complainants or Respondents, to provide support and guidance throughout the initiation, investigation and resolution of a report of Discrimination or Harassment. Upon receipt of a Complaint, the University may take interim measures to address concerns regarding safety and well-being and to facilitate the Complainant's continued access to University employment or education programs and activities. These measures may be both remedial (designed to address a Complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a Respondent). Remedial and protective measures, which may be temporary or permanent, may include no-contact directives, changes in class or work schedules, academic modifications and support, changes in University-owned living arrangements, interim suspension, University-imposed leave, suspension from employment, pre-disciplinary leave (with or without pay), or any other reasonably available measures that the University deems appropriate. Interim measures are available under both Informal and Formal Resolution Processes. Remedial measures are available regardless of whether a Complainant pursues a complaint or investigation under these Procedures. The ability to impose certain protective measures against a Respondent may require that the report be resolved through the Formal Resolution Process. The University will maintain the privacy of any remedial and protective measures provided to the extent practicable and will promptly address any violation of the protective measures.

## Advisor or Support Person

Both a Complainant and a Respondent are entitled to an Advisor or support person of their choice, and the Advisor or support person may accompany the Party to any meeting or proceeding under these Procedures. A Complainant may have an Advisor or support person present when reporting Discrimination and/or Harassment or at any point in these Procedures. A Respondent also may have an Advisor or support person present if and when the Respondent becomes a Party to an Informal Resolution Process or a Formal Resolution Process. An Advisor or support person may be an attorney, but an Advisor or support person may not speak for or stand in place of either the Complainant or the Respondent, act as legal counsel for a Party in the Informal Resolution Process or the Formal Resolution Process, or otherwise participate in the Informal Resolution Process or the Formal Resolution Process.

The University has the discretion to impose reasonable conditions upon the participation of an Advisor or support person. The Advisor or support person may not be a Party or Witness involved in the investigation.

## Time Frames

The University encourages prompt reporting. Persons who have experienced or witnessed Discrimination or Harassment are encouraged to report the incident as soon as possible.

Informal Complaints must be filed with the Institutional Equity Office within 180 days of the incident of Discrimination or Harassment or, where the Discrimination or Harassment is of an ongoing nature, within 180 days from the most recent incident.

Formal Complaints must be filed with The Institutional Equity Office within the earlier of 10 days following the conclusion of the Informal Resolution Process or 180 days of the last incident of Discrimination or Harassment.

Notwithstanding the foregoing, a complaint relating to alleged Discrimination or Harassment occurring during a Complainant's employment by the University must be properly filed within 30 days following termination of the Complainant's employment with the University.

To file an Informal or Formal Complaint, a Complainant must complete the appropriate form online, in person or via electronic mail. To request a Complaint Form, please [click here](#).

The 180-day deadline to file a complaint does not apply to University-Initiated Investigations, and the University will accept reports of Discrimination or Harassment at any time.

When extenuating circumstances warrant, the Title IX Coordinator and Affirmative Action Officer has the authority and discretion to extend any of the time limits contained in these Procedures for good cause except those relating to the filing of Complaints or the filing of appeals.

In general, a Complainant and Respondent can expect that the process will proceed according to the time frames provided in these Procedures. In the event that good cause exists for the investigation and resolution to exceed this time frame, the University will notify all Parties of the reason(s) for the delay and the expected adjustment in time frames. Good cause may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement for temporary delay to gather evidence for a criminal investigation, to accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness, due process and fairness with promptness.

## Expectations Regarding Participation

All employees and students have an obligation to cooperate in the conduct of these Procedures. Failure to do so may result in disciplinary action. In the event that a Complainant chooses not to participate in an interview or declines to provide information requested by the University Investigator(s), the Title IX Coordinator and Affirmative Action Officer may dismiss the complaint if there is no independent information upon which to proceed. The Title IX Coordinator and Affirmative Action Officer shall provide written notice of such dismissal to the Complainant(s) and the Respondent(s). In the event that a Respondent(s) chooses not to participate in an interview or declines to provide information requested by the University Investigator(s), the University Investigator(s) may conclude that such information or interview, if provided or conducted, would be adverse to the Respondent(s). Where the complaint or the circumstances involve potential criminal conduct, however, a Party may choose to remain silent during the process, and such silence will not be held as an admission or considered to be adverse to the Party.

In the event that an impacted Party chooses not to participate in an interview or declines to provide information requested by the University Investigator(s) in connection with a University-Initiated Investigation, the Title IX Coordinator and Affirmative Action Officer may dismiss the University-Initiated Investigation.

All University community members are expected to provide truthful information in any report or proceeding under these Procedures. Any person who knowingly makes a false statement in connection with the initiation or resolution of a complaint or University-Initiated Investigation under these Procedures may be subject to appropriate discipline. Making a good faith report of Discrimination or Harassment that is not later substantiated is not considered a false statement.

## Conflicts of Interests or Bias

In the event the Complainant (or impacted party in the case of a University-Initiated Investigation) or a Respondent has concerns that a University Investigator(s) or decision-makers under these Procedures cannot conduct an unbiased review or render a determination free from bias, such individual may report such concerns to the Title IX Coordinator and Affirmative Action Officer, who will assess the circumstances and determine whether a different University Investigator or decision-makers ought to be assigned to the matter. Concerns must be reported promptly or will be considered waived. In reaching such decision, the Title IX Coordinator and Affirmative Action Officer will consider whether a reasonable person would believe bias exists.

If the reported concerns are related to the Title IX Coordinator and Affirmative Action Officer, concerns may be reported to the Vice President for Government Affairs and General Counsel.

## Coordination with Law Enforcement

A Complainant may seek recourse under these Procedures and/or pursue criminal action. Neither law enforcement's determination whether or not to prosecute a Respondent, nor the outcome of any criminal prosecution, is determinative of whether a violation of University Policy has occurred. Proceedings under these Procedures may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

At the request of law enforcement, the University may agree to defer its fact gathering for a brief period during the evidence gathering stage of a criminal investigation. The University will nevertheless communicate with the Complainant regarding support, options for resolution and the implementation of interim remedial measures to address concerns regarding safety and well-being. The University may also take immediate and prompt steps that it deems necessary to protect the University community. The University will promptly resume its fact gathering as soon as it is informed that law enforcement has completed its initial investigation.

## Requests by Individuals with Disabilities

The University of Southern Indiana is committed to providing equal access under these Procedures to individuals with disabilities. Individuals who require academic adjustments, auxiliary aids and services and/or reasonable

accommodations to participate in any part of the resolution process should contact the Title IX Coordinator and Affirmative Action Officer.

## V. Reporting Options and Resources for Sexual Misconduct Matters

The University is committed to treating all members of the community with dignity, care and respect. Any individual affected by Sexual Harassment, Sexual Violence, Sexual Exploitation, Stalking or Relationship Violence, whether as a Complainant, a Respondent or a third party, will have equal access to support consistent with their needs and available University resources.

A first step for any Complainant or third-party witness may be choosing how to proceed following an incident of Sexual Harassment, Sexual Violence, Sexual Exploitation, Stalking and/or Relationship Violence. The University recognizes that deciding whether to make a report and choosing how to proceed can be difficult decisions. The University encourages any individual who has questions or concerns to seek the support of campus and community resources. These professionals can provide information about available resources and procedural options and assist either party in the event that a report and/or resolution under the Policies or the Procedures are pursued. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred.

### Confidential Resources

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without express permission of the individual. Those campus and community professionals include medical providers, mental health providers, ordained clergy and rape crisis counselors, all of whom have privileged confidentiality that has been recognized by the law. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor under the age of 18.

### Responsible Employees

In contrast to the designated campus or community professionals described above under “Confidential Resources,” who are obligated to refrain from revealing confidential information shared within the scope of their privilege, University employees are *required* to report all sexual misconduct and Title IX Harassment directly to the Title IX Coordinator and Affirmative Action Office or a member of the Institutional Equity Office. Responsible Employees receive annual required training to ensure that they understand their obligations and the resources available to University community members who report such incidents. Responsible Employees are required to share with the Title IX Coordinator and Affirmative Action Officer all information they receive or of which they become aware, including the identities of the Parties, if known.

[DOWNLOAD TABLE TENTS - Self identify as a Responsible Employee](#)

### Privacy

The privacy of the Parties will be respected and safeguarded at all times. All University employees who are involved in the execution of these Procedures receive specific training and guidance about safeguarding private information. Privacy generally means that information related to a report of Discrimination and Harassment will only be shared with a limited circle of individuals. The use of this information is limited to those University employees who “need to know” in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

## Release of Information

If a report discloses a serious and immediate threat to the campus community, the University will issue a timely notification to the community to protect the health or safety of the community. The University also may share non-identifying information about reports received in aggregate form, including data about outcomes and sanctions. At no time will the University release the name of the Complainant to the general public without the express consent of the Complainant or as otherwise permitted or required by law.

Pursuant to the Clery Act, certain anonymous statistical information must be shared with the campus Public Safety department. Annual Clery Act reporting to the U.S. Department of Education is required by educational institutions for particular offenses that have been reported at campus locations. The information contained in the Clery report tracks the number of Clery reportable offenses occurring at campus locations and does not include the names or any other identifying information about the persons involved in the incident.

All University proceedings are conducted in compliance with the requirements of Title IX, the Clery Act, VAWA, FERPA, state and local law, and University policy. No information will be released from proceedings under the Policies or the Procedures except as required or permitted by law and University policy. The University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly probation, loss of housing, suspension and expulsion.

## Reporting to Law Enforcement

In matters involving alleged criminal conduct, the Complainant may notify, or decline to notify, local law enforcement at any time. The University encourages Complainants to pursue criminal action for incidents of Sexual Harassment, Sexual Violence, Sexual Exploitation, Stalking and Relationship Violence that also may be crimes under state criminal statutes. The University will assist a Complainant, at the Complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

## Online and Anonymous Reporting

Reports may be made anonymously or identified using the methods outlined below. It should be noted that the University's ability to investigate or act upon anonymous reports may be limited. Anonymous reports that provide sufficient information to constitute certain criminal offenses will be reported without personally identifiable information for Clery Act reporting purposes.

*Reports related to sexual harassment, submitted through the reporting options below, do not constitute a Formal Complaint under the Sexual Harassment Policy.*

- **Discrimination and Harassment Incident Form** (these reports can also be submitted anonymously). Found here: [https://cm.maxient.com/reportingform.php?UnivofSouthernIndiana&layout\\_id=1](https://cm.maxient.com/reportingform.php?UnivofSouthernIndiana&layout_id=1)
- **Request a Complaint Form**. Found here: [https://cm.maxient.com/reportingform.php?UnivofSouthernIndiana&layout\\_id=8](https://cm.maxient.com/reportingform.php?UnivofSouthernIndiana&layout_id=8)

As with all other reports, all anonymous reports will go to the Title IX Coordinator and Affirmative Action Officer for review and appropriate response and action. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

## VI. Counseling, Advocacy and Support Services

The University is committed to providing a number of support services to University community members who experience Sexual Harassment, Sexual Violence, Sexual Exploitation, Stalking or Relationship Violence incidents.

Resources available to University community members include a variety of campus and community-based service providers and professionals.

Additionally, USI provides its students with professional staff who can assist students who have been subjected to Sexual Harassment, Sexual Violence, Sexual Exploitation, Stalking or Relationship Violence with academic and support services. The Title IX Coordinator and Affirmative Action Officer and the professional staff within the Dean of Students Office are available to assist students with the imposition of interim measures, both remedial and protective. Such measure include the following:

- Coordination of services.
- Academic adjustments, including processing absence notifications.
- Housing reassignments and assistance with emergency housing needs.
- Support during the campus disciplinary process, including in-person attendance at all meetings and ongoing in-person support.
- Support during the law enforcement process, including in-person attendance at meetings with law enforcement and/or the prosecutor's office.
- Assistance in obtaining no-contact directives within the University.
- Assistance in obtaining a protective order through the local court system.

## VII. Informal Resolution Process

### Filing an Informal Complaint

To file an Informal Complaint, a Complainant must submit Discrimination and Harassment Complaint Form online, in person or via electronic mail. The form must be submitted to the Institutional Equity Office within 180 days of the incident of Discrimination or Harassment or, where the Discrimination or Harassment is of an ongoing nature, within 180 days from the most recent incident. The Institutional Equity Office can provide assistance in completing the form. To request the Discrimination and Harassment Complaint Form, [click here](#).

Participation in the Informal Resolution Process is interactive and voluntary. However, the Complainant may ask to conclude the process at any time. The Institutional Equity Office will take steps to ensure the privacy of the Complainant and Respondent during the Informal Resolution Process to the extent maintenance of privacy does not interfere with the University's obligation to address allegations of Discrimination and/or Harassment.

### Processing of Informal Complaints

The Institutional Equity Office may take appropriate steps to resolve the Informal Complaint. Possible resolutions by agreement of the Parties may include, but are not limited to: an apology to the Complainant; assisting the Respondent to better understand the effects of their conduct and ways in which this behavior could be changed; participation in educational programs about equal opportunity or Harassment; verbal or written reprimands; or other interventions or actions aimed at ending the Discrimination or Harassment, preventing its recurrence, and addressing its effects.

Prior to completing the Informal Resolution Process, and/or upon the Complainant's request, the Title IX Coordinator and Affirmative Action Officer or University Investigator(s) may determine that no purpose is served by pursuing the Informal Resolution Process and may refer the Complaint to the Formal Resolution Process.

### Conclusion of the Informal Resolution Process

The Informal Resolution Process is designed to empower the parties to an Informal Complaint to reach a mutually satisfactory agreement. The Informal Resolution Process will be concluded by one of the following: (1) a decision to

stop further action on the Informal Complaint, (2) a resolution of the Informal Complaint by agreement of the parties or (3) initiation of the Formal Resolution Process.

The Institutional Equity Office will attempt to conclude the Informal Resolution Process within 30 days.

## VIII. Formal Resolution Process

### Filing a Formal Complaint

A Formal Complaint may be filed as the first course of action or following an Informal Complaint if there is no mutually acceptable resolution during the Informal Resolution Process. The University also may initiate an investigation in the absence of a Formal Complaint by a Complainant.

To file a Formal Complaint, a Complainant must complete the Discrimination and Harassment Complaint Form online, in person or via electronic mail. To request a Discrimination and Harassment Complaint Form, [click here](#). The complaint must be signed and dated by the Complainant and describe the alleged incident(s) with the relevant date(s), name(s) of the Respondent(s) and name(s) of Witness(es). The Institutional Equity Office can provide assistance in completing the that form.

### Initial Assessment of the Formal Complaint

As soon as practical following the receipt of the Formal Complaint, the Title IX Coordinator and Affirmative Action Officer will gather any clarifying information from the complainant in order to complete an initial assessment to determine (1) whether or not the allegations set forth in the Formal Complaint, if substantiated, would constitute a violation of one or both Policies and (2) whether or not there is reasonable cause to believe that the Respondent(s) has violated one or both of the Policies. If the information indicates that such allegations, if substantiated, would not constitute a violation of Policy or that there is not reasonable cause to believe that the Respondent(s) has violated the Policy, the Title IX Coordinator and Affirmative Action Officer may dismiss the Complaint, and that decision shall be final. The Title IX Coordinator and Affirmative Action Officer shall provide the Complainant with written notice of the dismissal.

In the event that the Title IX Coordinator and Affirmative Action Officer's initial assessment indicates that the allegations set forth in the Complaint, if substantiated, would constitute a violation of Policy and that there is reasonable cause to believe that the Respondent(s) has violated Policy, or if the Title IX Coordinator and Affirmative Action Officer determines that the matter should be investigated, University Investigator(s) shall be assigned to conduct a thorough fact-finding investigation.

### Notification of Formal Complaint to Respondent

Following an initial assessment, the Title IX Coordinator and Affirmative Action Officer will assign a University Investigator(s) to investigate the Formal Complaint. The University Investigator(s) must have sufficient training and/or experience to conduct a thorough and impartial investigation. In the event the Title IX Coordinator and Affirmative Action Officer made a determination pursuant to these Procedures to dismiss the Formal Complaint, no University Investigator(s) will be assigned and the notification as outlined below will not be sent.

The Title IX Coordinator and Affirmative Action Officer will provide prompt notification, including a copy of the Formal Complaint or notice of allegations, to the Complainant, the Respondent(s), to the department head or supervisor and to the appropriate Vice President, Dean or head of other major unit. The Formal Complaint or Notice of Allegations will be delivered through electronic mail. In the event the Respondent is a student or recognized student organization, the Dean of Students is the appropriate Dean. The notification to the Respondent(s) will include a copy of the Formal Complaint, or, in University-Initiated Investigations, a statement of allegations, and a copy of or link to

the relevant University Policy and these Procedures.

The Respondent(s) will be requested to respond in writing to the Formal Complaint within a reasonable time, not to exceed 10 days from the date of electronic mailing of the notification of the Formal Complaint. Any extension of time must be approved by the Title IX Coordinator and Affirmative Action Officer. In the event that an investigation is undertaken in accordance with these Procedures, a copy of the Respondent(s)'s response will be provided to the Complainant.

## University-Initiated Investigation

In a University-Initiated Investigation, a Respondent will be provided with written notice of the allegations forming the basis of the University-Initiated Investigation, and these Procedures will govern such investigation to the greatest extent practicable.

A Complainant or impacted party who may have been subject to Discrimination or Harassment that forms the basis of a University-Initiated Investigation shall (1) be provided with written notice that the University has commenced a University-Initiated Investigation; (2) receive a copy of any written response submitted by the Respondent(s); (3) be afforded an opportunity to review the investigation report; (4) upon request, be afforded an opportunity to meet with the decision-makers in connection with the University-Initiated Investigation; (5) be provided with written notice of the determination of whether a violation of one or both of the Policies occurred and any sanction or remedial measures imposed in connection with the violation; and (6) be afforded the right to appeal such determination, sanctions or remedial measures in accordance with these Procedures.

## Investigation of Formal Complaints

The assigned University Investigator(s) will conduct a thorough fact-finding investigation and will meet separately with both the Complainant and the Respondent(s), interview pertinent witnesses and review relevant documents regarding the Formal Complaint. The University Investigator(s) may consider all relevant information. Both parties will be afforded the opportunity to provide information and names of witnesses to the University Investigator.

The investigation shall be completed within 45 days following the assignment of the Formal Complaint to the University Investigator(s), unless an extension of time for good cause is approved by the Title IX Coordinator and Affirmative Action Officer.

## Investigation Report and Evidence

Within 10 days following the conclusion of the investigation, the University Investigator(s) will prepare and submit a preliminary investigation report summarizing the contested and uncontested information. The preliminary report will not include any findings. The Complainant (or impacted party in the case of a University-Initiated Investigation) and the Respondent will be provided access to review the preliminary investigation report and all evidence. Each party will have up to 10 days to review the materials and submit comments and additional information to the University Investigator in writing. The deadline to submit written feedback will be communicated to each party by the Title IX Coordinator and Affirmative Action Officer. In the absence of good cause, information discoverable through the exercise of due diligence that is not provided to the University Investigator(s) during the designated review and response period will not be considered in the determination of responsibility for a violation of the Policy.

As soon as practical, following consideration by the University Investigator(s) of any information provided by the Complainant (or impacted party in the case of a University-Initiated Investigation) and/or the Respondent, the University Investigator(s) will submit a final investigation report to the Affirmative Action Officer.

## Deliberation, Decision-making, and Standard of Proof

Upon receipt of University Investigators' report, the Title IX Coordinator and Affirmative Action Officer will appoint three University members as decision-makers to the Equity Panel, which will consist of a minimum of two decision-makers and may be composed of both internal and external members. The decision-makers, trained on the University Policies and Procedures, shall be furnished with a copy of the University Investigators' report and copies of any complaints or responses provided by the Parties. Within 15 days following the issuance of the final Investigative Report the decision-makers will convene an Equity Panel meeting. At the panel meeting, the decision-makers will be afforded the opportunity to ask questions of the University Investigator(s). The Complainant and Respondent will also be afforded an opportunity to meet with the decision-makers to make a brief statement and to answer any questions that the Equity Panel may have.

No violation of University policy will be presumed unless a preponderance of the evidence standard supports the finding of a violation. This preponderance of the evidence standard requires that the facts and information supporting each finding are more convincing than the facts and information offered in opposition to such finding.

Following the Equity Panel, the decision-makers will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The decision-makers will make findings of fact and determinations using a preponderance of evidence standard. The decision-makers will reach a decision by majority vote. If the Respondent is found responsible, the decision-makers will determine the appropriate sanctions. If the Respondent is a student, sanctions will be determined in conjunction with the Dean of Students. If the Respondent is a faculty or staff member, sanctions will be determined in conjunction with the Executive Director of Human Resources.

## Notice of Outcome

Following the Equity Panel meeting, the decision-makers shall make a written determination whether a violation of one or more Policies has occurred and provide a determination letter to the Title IX Coordinator and Affirmative Action Officer for distribution.

The determination letter shall include the following:

- identification of the allegations allegedly constituting Discrimination or Harassment under the Policy;
- a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notification to the parties, findings of fact supporting the determination, conclusions regarding the application of the University's Policy;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, and disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and
- procedures and permissible bases for the Complainant and Respondent to appeal the determination.

The Title IX Coordinator and Affirmative Action Officer will provide both parties the written determination and final outcome of the matter, including sanctions, if any, by electronic mail within fifteen (15) days following the Equity Panel. The Complainant notice will only provide information related directly to the Complainant.

The Title IX Coordinator and Affirmative Action Officer is responsible for imposing the sanction outlined by the decision-makers in coordination with other necessary campus offices.

In the event the charge of discrimination and/or harassment is not substantiated following the written determination of the decision-makers, reasonable efforts may be taken to restore the Respondent(s) to their prior status.

## IX. Sanctions and Remedies

Disciplinary sanctions and remedies may only be implemented after a finding of responsibility. If the decision-makers make a finding that the Respondent is responsible for a violation of University policy, they will also determine the appropriate sanctions. In the event of a disagreement on employee cases between the designated members, the disagreement will be deferred to the Executive Director of Human Resources for resolution. In the case of a student or recognized student organization, disagreements will be referred to the Dean of Students.

Sanctions will be decided on a case-by-case basis and will be in accordance with University policy. Possible sanctions for employees are outlined in the [University Handbook](#) and may include, but are not limited to, the following: verbal warning/counseling, written warning, suspension with/without pay, and termination. The decision-makers confer with the Executive Director of Human Resources regarding sanctions for all employee and staff matters. Sanctions for students are listed in the [Student Conduct](#) and may include, without limitation, verbal/written warning, probation, suspension, and expulsion. Suspension or Expulsion is a matter of permanent record. A permanent record indicates that the student behavior files may be retained indefinitely. The decision-makers will confer with the Dean of Students regarding sanctions for all student matters.

Except as provided herein, sanctions imposed pursuant to these Procedures may not be appealed or made the subject of a grievance under any other University policy.

If the accused is a faculty member and the sanction is to recommend termination of employment, the procedures for termination of a faculty member will be followed; provided, however, that the report of the University Investigator and the written determination of the decision-makers shall be accepted into evidence at the faculty member's termination hearing without the necessity of the Complainant (or impacted party in the case of a University-Initiated Investigation) testifying as a witness.

## X. Retaliation Prohibited

Retaliation against any person for reporting or complaining of Discrimination and/or Harassment, assisting or participating in the investigation of a complaint of Discrimination and/or Harassment, or enforcing University Policies with respect to Discrimination and/or Harassment is strictly prohibited. Overt or covert acts of reprisal, interference, restraint, penalty, discrimination, intimidation or harassment against an individual or group for exercising rights or performing duties under these Procedures will be subject to appropriate and prompt disciplinary or remedial action.

## XI. Appeal

### Grounds for Appeal

Each Party has the right to appeal the decision of the Equity Panel. Appeals are available after a complaint dismissal or after a final determination is made. Appeals can be made based on the following:

- Procedural irregularities in the investigation affecting the outcome;
- New evidence that could affect the outcome but was not reasonably available at the time the determination or dismissal was made; or
- The Title IX Coordinator and Affirmative Action Officer, Investigator(s), or decision-makers had a bias or a conflict of interest that affected the outcome.

## Process for Appeals

Parties will be given an opportunity to submit a written statement in support of or against the final determination made by the decision-makers. Appeals must be submitted to the Title IX Coordinator and Affirmative Action Officer or designee. Written appeals must be filed in person, via courier, or via postal or electronic mail within the 7 days of distribution of the Notice of Outcome. Decisions not appealed within such time are deemed final. If an Appeal is submitted, it will be provided to the other party who will have 7 days to submit an Appeal Response for review by the appellate decision-maker.

## Appeal Determinations and Written Outcomes

The appellate decision-maker that hears the appeal can take the following actions: affirm the original decision; affirm the original decision of responsibility for some or all of the charges and change the sanction (sanction may be reduced or increased); reverse the original decision of responsibility for some or all of the charges; or remand the matter to the original or new decision-makers for further consideration. Upon remand, if the original decision-makers affirm its prior decisions regarding responsibility and sanctions, the appellate decision-maker shall continue its review and render a decision on the original appeal(s). If the original decision-makers reverses or modifies its original decisions regarding responsibility and/or sanctions, each party shall have a right to submit a new appeal.

Except in cases involving the discovery of new evidence, the appellate decision-maker may consider, as appropriate given the grounds for appeal, the hearing record, the appeal letter and response, and the decision and rationale of the hearing panel. In cases where the appeal is based in whole or in part on a claim of newly discovered evidence, the appellate decision-maker will first determine if the offered evidence was not known at the time of the hearing and if it might impact the decision of responsibility or determination of sanction. If the appellate decision-maker determines that the evidence was not known at the time of the hearing and that it might impact the decision of responsibility or determination of sanction, the appellate decision-maker will remand the case to the original decision-makers for review who will then issue a new decision letter taking into account the newly discovered evidence.

The appellate decision-maker's decision will be communicated concurrently in writing to both the Respondent and the Complainant, normally within fifteen (15) days after the appeal was due and will include the rationale for the decision. The appellate decision is final, and no further appeal is permitted by either Party.

## XII. Additional Considerations

### Resources, Education and Prevention

Members of the University community are expected to respect the rights, dignity, and personhood of others. Any individual who experiences or is affected by Discrimination or Harassment, 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 any alleged incident occurred. The following is a non-exhaustive list of such resources available to the members of the University community.

Resources Specifically for USI Students:

- USI Counseling Center  
Orr Center 1051  
Telephone: 812-464-1867
- USI Religious Life Residence Life Resource Center  
Telephone: 812-464-1871

- USI Housing & Residence Life  
Your Resident Assistant or Area Coordinator  
Telephone: 812-468-2000
- USI Dean of Students  
Office University Center East 1229  
Telephone: 812-464-1862

Resources Specifically for Benefits-Eligible Faculty and Staff:

- EAP resources for employees through Timely Care.  
Flyer for more information is available on the benefits webpage at <https://www.usi.edu/hr/benefits>

Educational programs to promote the awareness of Discrimination and Harassment are offered at New Student Orientation, in New Employee Orientation, in the residence halls/apartments, and on campus throughout the academic year. Such prevention and awareness programs include a statement that the University prohibits all forms of unlawful Discrimination and Harassment including sexual harassment, definitions of various types of sexual harassment.

## Training of Officials

Investigations and Equity Panels will be conducted by officials who have received annual training on a number of areas including, but not limited to, the definitions of Discrimination and Harassment, including sexual harassment, domestic violence, dating violence, sexual assault, and stalking; the scope of the University's education program or activity; how to conduct an investigation and grievance process, including the Equity Panel, appeals and Informal Resolution processes; how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-makers will also receive training on any technology to be used at the Equity Panel and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators will also receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence. Any materials used to train these individuals will promote impartial investigations and adjudications of Formal Complaints for Prohibited Conduct under the Equal Opportunity and Non-Discrimination Policy. All training materials will be posted on the Institutional Equity Offices' website.

## Independence and Conflict of Interest

The Title IX Coordinator and Affirmative Action Officer oversees the implementation of these Procedures and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator and Affirmative Action Officer and other Equity Officials receive annual training and are trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally. To raise any concern involving bias or conflict of interest by the Title IX Coordinator and Affirmative Action Officer, contact the Vice President for Government Affairs and General Counsel. Upon receiving a concern of bias or conflict of interest, the Vice President for Government Affairs and General Counsel may designate an appropriate person to review and respond regarding the concerns raised, including recommending action to eliminate any bias or conflict of interest that might be found. Concerns of bias or a potential conflict of interest by the Investigators or decision-makers should be raised with the Title IX Coordinator and Affirmative Action Officer.

The Title IX Coordinator and Affirmative Action Officer may appoint external, independent parties with appropriate training to fill any of the defined roles within the Equal Opportunity and Non-Discrimination Policy or these Procedures. Any external parties retained under this section will agree to abide by all confidentiality provisions set forth within this Policy or these Procedures and applicable law.

## Recordkeeping

The University will maintain for a period of seven years records of its Discrimination and Harassment Grievance Process, including:

1. Each discrimination and harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom; and
6. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of Discrimination and Harassment, including:
  1. The basis for all conclusions that the response was not deliberately indifferent;
  2. Any measures designed to restore or preserve equal access to the University's education program or activity; and
  3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
7. All materials used to train Title IX Coordinator and Affirmative Action Officer, Investigators, Decision-Makers, Panel Members, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the Institutional Equity Offices' website.

The University will also maintain any and all records in accordance with state and federal laws.

## Miscellaneous

This policy is not a contract. The University reserves the right to modify the application of these procedures consistent with applicable law to provide, in its discretion, equitable treatment of Complainant and Respondent.

Inquiries about the application of **Equal Opportunity and Non-Discrimination Policy** and its implementing regulations may be referred to USI's Title IX Coordinator and Affirmative Action Officer and/or the Assistant Secretary for the Department of Education's Office of Civil Rights.

## XIII. Contacts

### *Policy Clarification, Discrimination Complaints and Written Affirmative Action Programs*

<b>Title/Office</b>	<b>Telephone</b>	<b>Email/Webpage</b>
Institutional Equity	812-464-1703	<a href="https://www.usi.edu/institutional-equity/">https://www.usi.edu/institutional-equity/</a>
Government and Legal Affairs	812-464-1849	<a href="https://www.usi.edu/government-and-legal-affairs/">https://www.usi.edu/government-and-legal-affairs/</a>

### *Academic Adjustments and Reasonable Accommodations*

<b>Title/Office</b>	<b>Telephone</b>	<b>Email/Webpage</b>
Disability Resources	812-464-1961	<a href="https://www.usi.edu/disabilities/">https://www.usi.edu/disabilities/</a>
ADA Coordinator	812-465-1701	<a href="https://www.usi.edu/hr/ada/">https://www.usi.edu/hr/ada/</a>
Institutional Equity	812-464-1703	<a href="https://www.usi.edu/institutional-equity/">https://www.usi.edu/institutional-equity/</a>

## XIV. Related Documents, Forms and Tools

- [Sexual Harassment Policy \(F.1\)](#)
- [Amorous Relationship Policy \(F.2\)](#)
- [Equal Employment and Non-Discrimination Policy \(F.3\)](#)

[Institutional Equity Office](#)

[Report Flowchart](#)

[Incident Report Flowchart](#)

[Know Your Rights - Sexual Harassment, Sexual Assault, Dating Violence and Stalking](#)

[Procedures for Resolving Complaints of Discrimination and Harassment](#)

### **Regulations Governing Conduct:**

Dean of Students Office: <https://www.usi.edu/deanofstudents/student-conduct/>

Human Resources Office: <https://www.usi.edu/hr/>

### **Websites for governing bodies with oversight for applicable laws and regulations:**

- [Indiana Civil Rights Commission](http://www.in.gov/icrc): [www.in.gov/icrc](http://www.in.gov/icrc)
- [U.S. Department of Education Office for Civil Rights](http://www2.ed.gov/about/offices/list/ocr/index.html): [www2.ed.gov/about/offices/list/ocr/index.html](http://www2.ed.gov/about/offices/list/ocr/index.html)
- [U.S. Department of Justice, Americans with Disabilities Act](http://www.ada.gov/): [www.ada.gov/](http://www.ada.gov/)
- [U.S. Department of Labor Office of Federal Contractor Compliance Programs](http://www.dol.gov/agencies/ofccp): [www.dol.gov/agencies/ofccp](http://www.dol.gov/agencies/ofccp)
- [U.S. Equal Employment Opportunity Commission](http://www.eeoc.gov): [www.eeoc.gov](http://www.eeoc.gov)