10 Things You Should Know About IU’s Sexual Misconduct Policy

1. What’s Prohibited? IU prohibits discrimination on the basis of sex or gender, and all forms of “sexual misconduct” (sexual harassment, sexual violence, dating violence, domestic violence, sexual exploitation and stalking).

2. Who? Where? The Sexual Misconduct policy protects all members of the University community and applies to sexual misconduct that occurs on or off campus in the context of any University program or activity, as well as conduct that creates a hostile environment on campus or in any University program or activity.

3. Everyone’s Responsibility. Every University member is responsible for knowing the University’s definition of consent, what conduct is prohibited, and ensuring they have consent before engaging in sexual activity.

4. Interim and Remedial Measures. The University can help students who have experienced sexual misconduct with measures such as no contact orders; assistance in changing academic, living, transportation, and or work situations; counseling services; victim advocacy services; and assistance in obtaining protective orders.

5. No Retaliation. Retaliation against anyone who has reported an incident of sexual misconduct, provided information, or participated in a University sexual misconduct investigation, is prohibited by the University.

6. Responsible Employees. Under Title IX, “Responsible Employees” (including faculty, Als, lecturers, advisors, residential hall staff, student affairs administrators, coaches, trainers, and more) are required to share information known to them about incidents of sexual misconduct, with the University Title IX Coordinator or a Deputy Title IX Coordinator. This is to ensure the University is able to reach out to the individual who has experienced sexual misconduct with important information and resources.

7. Confidential Employees. Confidential employees, such as mental health counselors and victim advocates (depending on campus), do not have to report information known to them, and students can speak to them privately about sexual misconduct. (See StopSexualViolence.iu.edu for the Confidential Employees on your campus)

8. Reporting. Students are strongly encouraged to report instances of sexual misconduct to learn about available resources, as well as IU procedures. IU will not discipline students reporting sexual misconduct for violations of the Student Code related to drug and/or alcohol consumption in connection with the reported incident of sexual misconduct. To report, contact IUPD, a Deputy Title IX Coordinator or the University Title IX Coordinator, or email titleix@iu.edu.

9. Request for No University Action. Reporting an incident of sexual misconduct does not mean you have to move forward with a case under the University’s procedures. If you request that no action be taken, the University will weigh this request against its duty to maintain a safe community.

10. Safeguard Privacy. The University will share personal information and details of an allegation only with individuals who have a legitimate administrative or legal reason to know.

For more information visit
StopSexualViolence.iu.edu
Select Definitions from IU's Sexual Misconduct Policy

**Consent** – is expressed through affirmative, voluntary words or actions mutually understandable to all parties involved:

- **Consent** is given for a specific sexual act at a specific time and can be withdrawn at any time.
- **Consent** cannot be coerced or compelled by duress, threat, or force.
- **Consent** cannot be given by someone who, for any reason, cannot understand the facts, nature, extent, or implications of the sexual situation occurring, including, but not limited to, those who are under the legal age of consent, asleep, unconscious, mentally or physically impaired through the effects of drugs or alcohol, or mentally impaired due to an intellectual or other disability.
- **Consent** cannot be assumed based on silence, the absence of “no” or “stop”, the existence of a prior or current relationship, or prior sexual activity.

**Sexual misconduct** - includes sexual harassment, sexual violence, dating violence, domestic violence, sexual exploitation and stalking. For purposes of this policy, sex or gender based discrimination is considered sexual misconduct.

**Dating violence** - violence committed by any person who is or has been in a relationship of a romantic or intimate nature. The existence of such a relationship will be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interactions between the persons involved in the relationship. (based on VAWA definition 42 U.S.C. 13925(a))

**Domestic violence** - includes conduct that is an element of an offense under Indiana Statute **IC 35-42** (which includes crimes against a person) or a threat to commit an act described in **IC 35-42** by a person against a person who:

1. is or was a spouse of;
2. is or was living as if a spouse of;
3. has a child in common with;
4. is a minor subject to the control of; or
5. is an incapacitated individual under the guardianship or otherwise subject to the control of the other person regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution. (**IC 5-26.5-1-3**)

**Sexual assault** - is committed when an individual subjects another person to sexual penetration (see below) (i) without the consent of the person, (ii) when the individual knew or should have known that the other person was mentally or physically incapable of resisting or appreciating the nature of the other person's own conduct, (iii) or when the other person is less than sixteen years of age.

Sexual assault is also committed when an individual touches another person for the purpose of sexual arousal or gratification of either party (a) without consent of the person, or (b) when the actor knew or should have known that the person was physically or mentally incapable of resisting or appraising the nature of the person's own conduct, (iii) or when the person is less than sixteen years of age.

**Sexual harassment** - Sexual harassment is unwelcome conduct or behavior of a sexual nature. Sexual harassment includes sexual violence (see definition). Both violent and non-violent sexual harassment is prohibited. Sexual harassment can include unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal, written, electronic (e.g. by e-mail, text, social media, etc.), or physical conduct of a sexual nature. Sexual harassment occurs when:

1. submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual’s employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo), or when
2. such conduct is sufficiently severe, pervasive or persistent to limit or deny a person's ability to participate in or benefit from the University’s educational programs or affects employment, creating a hostile environment.

**Stalking** - a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity. (**IC 35-45-10-1**)
How Does the University Respond to Reports of Sexual Misconduct?

Information regarding an incident of sexual misconduct may be reported to:

- Title IX Coordinator/Deputy Title IX
- Student Affairs Offices
- Responsible Employee
- IUPD
- Confidential Employees: no reporting obligations

Next Steps
All incidents of Sexual Misconduct are reported to the Deputy Title IX coordinator for the respective campus, as well as the University Title IX Coordinator. Title IX Officials coordinate directly with campus Student Affairs, Academic Affairs, and/or Human Resources to take the following actions:

- Gather preliminary information
- Offer available resources to Complainant, including counseling
- Implement appropriate interim measures and no contact orders, if applicable
- Assist in contacting local law enforcement if desired by Complainant

Required Actions: ______
Options: ______

Determine whether Complainant wants to move forward with investigation

Yes

If Complainant does not wish to move forward with an investigation, the University must determine the following: Can a safe environment for the entire University community be maintained without an investigation?

Yes

Provide any necessary remedial measures and notify the Complainant that the University’s abilities to address the complaint will be limited without an investigation

No

Faculty or Staff Procedures (See Sexual Misconduct Policy)

Procedures initiated according to the University Sexual Misconduct Policy

No

Student Procedures (See Student Procedures chart)

Email titleIX@iu.edu with any questions.
Responding to Complaints of Sexual Misconduct

**Once Sexual Misconduct proceedings are initiated**

Complainant provided opportunity to present oral and written evidence and the Panel asks questions.

**Chair of Panel reviews the charges against the Respondent who may respond.**

**Sexual Misconduct Hearing**
- Respondent must attend hearing
- Complainant may attend hearing
- Closed hearing
- Conducted by a trained faculty and staff
- Chair of Panel reviews the Charges against the Respondent who may respond.

**Deliberation and Decision**
- The Panel deliberates without the parties present, determines responsibility by a preponderance of the evidence, and where appropriate, determines sanctions.

**Finding of Responsibility**
- Sanctions may be imposed and both parties notified in writing.

**Opportunity for Appeal**
- Either party may appeal the decision within 5 days of the written notice on the following basis:
  a) Significant procedural error
  b) Sanctions grossly disproportionate to violation

**Notice of the appeal outcome is provided to the parties after the appeal.**

**Investigation**
- The investigation may include but is not limited to:
  - Interviews with the Complainant, Respondent, and witnesses
  - Examination of written statements by the parties, relevant documents, and other relevant information

**Alternative Resolution Options**
- May be used in limited appropriate cases with the consent of all parties, but may be ended at any time in favor of a sexual misconduct hearing.

**Acceptance of Responsibility Option**
- May be used in cases where the facts are not generally in dispute and the Respondent accepts responsibility.

**Chair of Panel reviews the Charges against the Respondent who may respond.**

Complainant and Respondent provided opportunity to present oral and written evidence and the Panel asks questions.

**Parties are notified of the allegations and scheduled to discuss the process with the appropriate University officials.**

**Required Actions:**

Options:

- Office of Student Welfare & Title IX 2015-2016
- Email titleIX@iu.edu with any questions.