



Non-Title IX Sex-Based Discrimination Policy

Further, even when the Respondent is not a member of the University community, supportive

The University reserves the right to determine which University officials have a legitimate educational interest in being informed about incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of University officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Review Board members, witnesses, and the Parties. The circle of people with this knowledge will be kept as tight as possible to preserve the Parties' rights and privacy.

The University may contact parents/guardians of students to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so.

The Resolution Process (as outlined in Section 8.0 below) is private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with University Policy.

While there is an expectation of privacy around what is discussed during the Resolution Process, the Parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of Sex-Based Discrimination. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University Policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of University Policy, though supportive measures will be offered to those impacted. All offense definitions encompass actual and/or attempted offenses.

- d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.³

defined as

- a. an University employee or student in a position of power
- b. conditions (implicitly or explicitly) the provision of

between the persons involved in the relationship. For the purposes of this definition—

- i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- ii. Dating violence does not include acts covered under the definition of domestic violence.

,⁴ defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Illinois.

defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person that
 - would cause a reasonable person to fear for their safety, or
 - the safety of others; or
 - suffer substantial emotional distress.

For the purposes of this definition:

- Course of conduct means two or more acts, including, but not limited to acts in which the Respondent 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

⁴ To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

In addition to the forms of Sex-Based Harassment described above, the University additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived sex.

, defined as:

- a. threatening or causing physical harm;
- b. extreme verbal, emotional, or psychological abuse; or
- c. other conduct which threatens or endangers the health or safety of any person or damages their property.

, defined as:

- a. actions that deprive, limit, or deny,
- b. other members of the community,
- c. of educational or employment access, benefits, or opportunities,
- d. including disparate treatment.

, defined as:

- a. implied threats or
- b. acts that cause the Complainant reasonable fear of harm.

, defined as:

- a. acts likely to cause physical or psychological harm or social ostracism
- b. to any person within the University community,
- c. when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Student Handbook & Code of Conduct).

defined as:

- a.

mutually understandable words, conduct or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.

- Silence or lack of physical or verbal resistance does not imply consent.
- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- Consent cannot be inferred from a person’s manner of dress.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Consent to past sexual activity does not constitute consent to future sexual activity.
- Consent can be withdrawn at any time. A person who initially consents to sexual

- Persons who are unable to communicate consent due to mental or physical conditions.
- Persons who have not reached the age of consent. The age of consent in Illinois is 17 but rises to 18 if the accused is a family member or holds a position of trust, authority or supervision in relation to the victim/survivor.

Consent must happen without force or coercion. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Proving the use of physical force is not necessary to show that sexual activity was coerced or non-consensual. Coercion is the use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Examples of coercion include but are not limited to:

- threatening to "out" someone based on sexual orientation, gender identity, or gender expression
- threatening to harm oneself if the other party does not engage in the sexual activity
- threatening to harm the person who does not engage in the sexual activity
- threatening to tell others private or intimate information one has shared, or information about sexual activities, if one does not engage in certain sexual behaviors

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The University will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The University and any member of

As a Catholic, Dominican institution, the University believes that the dignity of the human person and her or his restoration of right relationship with God and others is central to the profession and practice of any faith. In Roman Catholicism, the Sacrament of Reconciliation or Penance is a moment of sacred grace through healing. For Roman Catholic faculty, staff, and students, Reconciliation is made available by request or through general pastoral offerings of the University Ministry Center. For baptized Roman Catholics, the information shared within the confessional space of the Sacrament is completely confidential and remains under what the Church calls the sacramental seal. The seal prevents the confessor from sharing any information because it is "sacred, and cannot be violated under any pretext" (Catechism of the Catholic Church 2490). As such, a Roman Catholic priest in good standing serving as a confessor on the University's campus shall not be required to report any information disclosed in the confessional space.

Complainants have the right to request confidentiality. When deciding how they want to proceed, Complainants must weigh the fact that maintaining confidentiality can impact the University's ability to adequately investigate a particular incident or to pursue appropriate action against a Respondent.

A Complainant who first requests confidentiality may later decide to file a complaint with the University

- An increased risk that the Respondent will commit additional acts of Sex-Based Discrimination,
- Whether there have been other Sex-Based Discrimination complaints about the same Respondent;
- Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- Whether the Respondent threatened further Sex-Based Discrimination or other violence against the Complainant or others;
- Whether the Sex-Based Discrimination was committed by multiple Respondents;
- Whether Sex-Based Discrimination was perpetrated with a weapon;
- Whether the Complainant is a minor;
- Whether the University possesses other means to obtain relevant evidence of the violence (e.g., security cameras or personnel, physical evidence);
- Whether the Complainant's

If the University determines that the alleged Respondents(s) pose a serious and immediate threat to the University community, the Title IX Coordinator or Campus Safety may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the Complainant to the extent permitted by law. The University may have other reporting obligations under state, federal, or local laws. Complainants will be notified whenever these reporting obligations apply to the incident.

To encourage reporting, the University pursues a policy of offering witnesses and individuals who wish to report incidents limited amnesty from being charged for policy violations, such as

- The complaint can be resolved through Informal Resolution,
- There is not enough information to proceed with the complaint,
- There are extenuating circumstances that might affect the need for a full investigation of the complaint, or
- The Complainant requests confidentiality or a supportive response and that request can be granted.

In the case of an anonymous report

Resolution process (described below) to resolve conflicts, as appropriate. The Parties must provide written consent to use Alternative Resolution.

The Investigator(s) will interview the Complainant, Respondent, Witnesses

responses, and/or share the responses between the Parties for their responses, while also ensuring that they do not create a never-ending feedback loop.

After conducting any additional investigative steps requested by the Parties or identified by the Investigator, the Investigator will prepare a final investigation report, which will include a recommendation as to whether there is sufficient information, by a preponderance of the

If the Respondent accepts the recommended finding(s) of responsibility, the Title IX Coordinator will work with appropriate University officials to recommend a sanction(s). If the Respondent is willing to accept the recommended sanction, the sanctions will be implemented, and the complaint closed. If the Respondent does not accept the recommended sanction, the Title IX Coordinator will refer the complaint for an administrative hearing before the Review Board solely on the issue of sanction, as outlined below.

The Title IX Coordinator will appoint a standing pool of trained members of the University community and, at the discretion of the Title IX Coordinator, external professionals with experience adjudicating cases of Sex-Based Discrimination. The Title IX Coordinator will select three (3) members from this pool to serve on the Review Board, one of whom will serve as the Review Board Chair. The Review Board will review the recommended finding(s) and, if appropriate, determine the appropriate sanction(s) under these procedures. All individuals serving on any Review Board must be impartial and free from actual bias and conflict of interest.

If any Party contests the recommended finding(s) of responsibility (or no responsibility) for an alleged violation of the Policy, a hearing will be held to determine whether the evidence supports a violation of University policy. In determining whether the Respondent violated University policy, the Review Board will consider whether there is sufficient evidence to support the recommended finding(s) by a preponderance of the evidence.¹³

Within ten (10) business days of receiving the final investigation report from the Investigator(s), the Title IX Coordinator will convene the Review Board. The Review Board will review the report and all responses, and then make the final determination. A simple majority vote is required to determine the finding.

If the record is incomplete, the Review Board may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the Investigator, the Parties, or any witnesses, if needed.

¹³ Preponderance of the evidence is an evidentiary standard used in a burden of proof analysis. Under the preponderance standard, the burden of proof is met when the fact finder determines that there is more likely than not (a greater than 50% chance) that the claim is true.

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A notice of the appeal outcome will be sent to all Parties simultaneously. The notice will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings. Notice will be shared with the Parties within five (5) business days of notification to the Title IX Coordinator

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with, or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate University policies.

In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Coordinator in the complaint database for a period not to exceed seven (7) years, or as required by state or federal law or institutional policy.

This Policy and the procedures contained herein supersede any previous policies addressing Non-Title IX Sex-Based Discrimination. This Policy and the procedures contained herein will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator may also vary procedures materially with notice (on the University website, with the appropriate effective date identified) upon determining that changes to law or regulation – or alterations due to court decisions - require policy or procedural alterations not reflected in this Policy and these procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution unless the Parties consent to be bound by the current policy.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by the University regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released by the University to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University officials.
- The right to have University policy and these procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by University officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by the University in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report.
- The right to have allegations of violations of this Policy responded to /F6 12 Tf1 cpusi792 reW'n3 1.as31

- The right to be informed of available supportive measures on campus and in the community.
- The right to a University-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain confidential, provided confidentiality does not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any University meeting or interview involving another party, when possible.
- The right to identify and have the Investigator(s), Advisors, and/or Decision-maker(s) question relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker(s), may be asked of any party or witness.
- The right to have inadmissible sexual predisposition/prior sexual history or irrelevant character evidence excluded by the Decision

- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). In reality, these relationships may be less consensual than perceived by the individual whose position confers power or authority. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to romantic or sexual involvement, the possibility of a later allegation of a relevant Policy violation still exists. The University does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the University. However, for the personal protection of members of this community, relationships in which power differentials are inherent (e.g., faculty-student, staff-student) are generally discouraged. They may also violate standards of professionalism and/or professional ethics.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or otherwise evaluative role over the other party are inherently problematic. Therefore, 3(o)t1omm(m)7(m)-6(v)