

## **Departmental Guidance & Protocol Regarding Sexual Misconduct/Title IX**

### **Departmental Guidance**

The Department of Biology is committed to the well-being and welfare of all members of the IU community, including responding appropriately to instances of sexual misconduct within the Department of Biology. In accordance with Indiana University's [Sexual Misconduct Policy](#) (University Policy), the Department of Biology will not tolerate sexual violence or other acts of sexual misconduct, and will take action to prevent and address these incidents reported by any student (undergraduate and graduate) or employee (faculty, staff, academic appointees, and temporary staff). The University Policy covers every member of our Department regardless of gender, sexual orientation, gender identity, immigration and citizenship status, and professional or academic positions, etc. The University Policy also applies to interactions between peers as well as superior-subordinate relationships.

The federal Title IX law informs the University Policy, and thus, the Department's response to sexual harassment and sexual violence – which includes rape, acquaintance rape, domestic violence, dating violence, sexual assault, sexual exploitation, and stalking. All of these unlawful and unacceptable behaviors are considered forms of “sexual misconduct.”

Individuals who believe they have experienced any form of sexual misconduct – or those who have knowledge of or believe they have observed sexual misconduct – are strongly urged to get help and report incidents promptly. Retaliation against anyone who makes a report of sexual misconduct is prohibited by the University Policy and Title IX. **Any person who is a Responsible Employee (see the definition below) – for which all faculty and lecturers are considered to be– and who has received a report or has knowledge of sexual misconduct must report that information to designated University officials who are trained to respond appropriately.**

According to the Indiana University Sexual Misconduct Policy, the University will provide a fair and impartial investigation and resolution for complaints and, where appropriate, issue sanctions and remedial measures.

The University Policy states that names of individuals involved in sexual misconduct cases will not be disclosed by the University, except on a need-to-know basis or as required by law. Confidentiality is not the same as anonymity, which means not being named or personally identified.

### **Understanding Key Terms**

#### ***Responsible Employee***

Responsible Employees are those who have the authority to redress sexual misconduct, who have the duty to report incidents of sexual misconduct, or who a student could reasonably believe has this authority or duty. Responsible employees include, but are not limited to:

- a. All instructors, including full-time professors, adjunct professors, lecturers, associate instructors (AIs), teaching assistants (TAs), and others who offer classroom instruction or office hours to students;
- b. All advisors;
- c. All coaches, and other athletic staff that interact directly with students;

- d. All student affairs administrators;
- e. All residential hall staff;
- f. All employees who work in offices that interact with students; and,
- g. All supervisors and University officials.

### **Confidential Employee**

Confidential employees include certain University employees who, based on their own professional licensure and the nature of their role on campus, are available to speak with individuals about incidents of sexual misconduct and maintain the individual's desire for anonymity and absolute confidentiality. These confidential employees are exempt from the reporting requirements that apply to responsible employees. Individuals who desire anonymity in seeking assistance about sexual misconduct should be referred to a confidential employee.

The University's confidential employees include, but are not limited to:

- a. Licensed, professional mental health counselors working in that capacity, and those they supervise;
- b. Health care professionals and staff located in on-campus health care centers; and,
- c. Any staff or specialists on a campus specifically designated as non-professional sexual assault advocates.

\*At IUB, Confidential Employees include Confidential Victim Advocates as well as counselors at Sexual Assault Crisis Services (SACS) and Counseling and Psychological Services (CAPS). Their contact information can be found on the [stopsexualviolence.iu.edu](http://stopsexualviolence.iu.edu) website and below.

- SACS (available for in-person appointments and can also assist 24 hours a day by calling the crisis line at (812) 855-8900.
- Confidential Victim Advocates/Student Advocates Office: (812) 856-2469 or email [cva@indiana.edu](mailto:cva@indiana.edu)
- CAPS / To speak to a crisis counselor: (812) 855-5711 (choose option 1)
- IU Student Health Center: (812) 855-4011 or (812) 855-7688

### **Complainant**

Refers to an individual who reports experiencing sexual misconduct committed by a member of the University community, and is named in a complaint of sexual misconduct under the University Policy and procedures. The University may serve as the Complainant when the alleged victim does not wish to participate and the University has determined it is necessary to move forward under the applicable procedures.

### **Consent**

Consent is an agreement expressed through affirmative, voluntary words or actions, and mutually understandable to all parties involved, to engage in a specific sexual act at a specific time:

- Consent can be withdrawn at any time, as long as it is clearly communicated.
- Consent cannot be coerced or compelled by force, threat, deception or intimidation.
- Consent cannot be given by someone who is incapacitated, as defined below.
- 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.

### **Incapacitated**

A person is incapable of consent if they are unable to *understand the facts, nature, extent, or implications* of the situation due to drugs, alcohol, a mental disability, being asleep or unconscious, or

based on their age (pursuant to Indiana law). Consent does not exist when the individual initiating sexual activity *knew or should have known* of the other person's incapacitation

### ***Respondent***

Any member of the University community alleged to have engaged in sexual misconduct as defined in the Indiana University Sexual Misconduct Policy.

### ***Retaliation***

Protections against retaliation are critical to reducing the prevalence of sexual misconduct within the University community. Retaliation against anyone who has reported an incident of sexual misconduct, provided information, or participated in procedures or an investigation into a report of sexual misconduct, is prohibited by the University and will not be tolerated. Acts of retaliation include intimidation, threats, and/or harassment, whether physical or communicated verbally or via written communication (including the use of e-mail, texts and social media), as well as adverse changes in work or academic environments or other adverse actions or threats. The University will take steps to prevent retaliation, and will impose sanctions on anyone or any group who is found to have engaged in retaliation in violation of the University Policy. Concerns about potential retaliation in connection with a report of sexual misconduct should be reported to a Deputy Title IX Coordinator or the University Title IX Coordinator.

### ***Sexual Assault***

When an individual subjects another person to sexual penetration without the consent of the person, and/or by force. Sexual assault is also committed when an individual touches the intimate area of another person (i.e., genitals, breasts, buttocks) or intentionally touches another person with any of these body parts, for the purpose of sexual arousal or gratification of either party without the consent of the person, and/or by force.

### ***Sexual Harassment***

Sexual harassment is unwelcome conduct or behavior of a sexual nature. Sexual harassment includes sexual violence (see the definition, below). 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.

### ***Sexual Misconduct***

Sexual harassment, sexual violence, dating violence, domestic assault, domestic violence, rape, sexual assault, sexual exploitation, and stalking. For purposes of University Policy, sex or gender-based discrimination is considered sexual misconduct.

### ***Sexual Violence***

Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to use of drugs or alcohol, or due to an intellectual or other disability. Sexual violence includes rape and sexual assault.

### ***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. (See Indiana Code IC 35-45-10-1).

### **Departmental Protocol**

1. Complainants are first encouraged to talk directly with their faculty mentor if the complainant is a graduate or undergraduate student, or their immediate supervisor if an employee. Faculty, instructors, supervisors, and others in student-facing positions are all considered Responsible Employees (RE). Complainants retain the right to go to any person categorized as a Responsible Employee, or to go directly to one of the Deputy or Title IX Coordinators.
2. Complainants who do not feel comfortable speaking with their faculty advisor or immediate supervisor, can reach out to one of two **staff liaisons** who are also designated as Responsible Employees. Our staff liaisons are the Administrative Assistant to the Chair and HR Business Partner. They are most reachable by phone and email given the current pandemic, though feel free to reach out if you would like to schedule a time to meet face-to-face or via Zoom.
  - a. Jennifer Tarter (staff liaison, Administrative Assistant to Chair): Biology Building 326, (812) 856-3984, [jenjones@indiana.edu](mailto:jenjones@indiana.edu), she/her/hers
  - b. Shana Wigington (staff liaison, HR Business Partner): Biology Building 127, (812) 855-6283, [shwiging@iu.edu](mailto:shwiging@iu.edu); she/her/hers
3. Before listening to details of the alleged incident, REs are strongly encouraged to inform the complainant that if he/she is about to report something, REs are obligated to contact campus Deputy Title IX Coordinator or the University Title IX Coordinator and inform them of what we know about an incident of sexual misconduct when it involves students or employees.
  - a. Explain key reasons why we are obligated to report the incident including:
    - i. Commitment to report based on your role as a Responsible Employee
    - ii. To promote safety and coordinate available resources
    - iii. Others trained to respond and address the situation
  - b. Explain that even in cases where the complainant wants confidentiality or doesn't want the University to investigate the matter, REs must still report any information of sexual misconduct that may be known to the RE, as required; absolute confidentiality cannot be guaranteed, but a respect for privacy is considered a major priority.
  - c. Direct the complainant to a Confidential Employee, individuals who are not obligated to report information with the complainant's consent if they are interested in anonymity.
    - i. SACS (available 24 hours/day): (812) 855-8900
    - ii. CAPS: (812) 855-5711 (option 1)
    - iii. Confidential Victim Advocates/Student Advocates Office: (812) 856-2469 or [cva@indiana.edu](mailto:cva@indiana.edu)

4. If the complainant still chooses to divulge details of the alleged incident, listen and focus on what the person needs in the moment, without judgement.
  - a. Be patient and supportive in your words and actions. Reassure with statements such as 'I am sorry this happened to you', 'Do you have a safe place to be', 'What happened is not your fault', etc.
  - b. Key information to obtain in order to submit a report includes:
    - i. Date of incident
    - ii. Nature of incident
    - iii. Names of relevant parties
    - iv. Any additional information that may be helpful
  - c. Avoid questions that may imply blame or second guessing on their behavior (e.g., 'why didn't you...', 'you should have...', etc.).
  - d. Avoid counseling or further investigation into the matter as these are duties for trained health care professionals and Title IX Coordinators, respectively.
    - i. Police investigate criminal complaints
    - ii. Campus Title IX offices investigate violations of University Policy and help arrange accommodations and other measures of assistance
    - iii. Medical professionals address physical needs
    - iv. Advocates assist with resources and reporting options
    - v. Mental health professionals are available to support the process of recovery
5. Explain to the complainant that you will contact the Deputy Title IX Coordinator for IUB, who will then notify the University Title IX Coordinator. One of these administrators will reach out to the complainant to ensure he/she has access to available resources (e.g., counseling services) and interim measures (e.g., no contact orders and assistance with changing living, academic, work, and/or transportation services). Administrators will also reach out to appropriate parties (e.g., Chair, Faculty/Supervisors, Accused, etc.)
  - a. In the meantime, provide complainant with the following information about available resources relevant to their status as a student or employee and complaint(s):
    - i. Sexual Assault Crisis Services can also assist 24 hours a day by calling the crisis line at (812) 855-8900;
    - ii. CAPS Counseling & Psychological Services (enrolled students only) at the IU Health Center: (812) 855-5711 ([healthcenter.indiana.edu/counseling](https://healthcenter.indiana.edu/counseling)); two free counseling sessions;
    - iii. The Division of Student Affairs has a page dedicated for help on a number of issues related to sexual misconduct: <https://studentaffairs.indiana.edu/health-safety/get-help/index.html>;
    - iv. IU Employee Assistance Program (EAP) (appointed staff and academic appointees only); (888) 881-LINC (5462); 24-hour helpline and 6 counseling sessions per presenting issues per year at no cost (<https://hr.iu.edu/benefits/eap.html>);
    - v. If the student or employee seems suicidal or a danger to himself/herself or to others, call 911;
    - vi. If someone has been sexually assaulted or raped, encourage them to get an examination as soon as possible at the IU Health Bloomington Hospital (812-353-9515) and to contact the police (911 – or IUPD 812-855-4111 or BPD 812-339-4477). When IUPD responds, they will ensure the appropriate officials on campus are informed, including the Deputy Title IX Coordinators.

6. Do not share the information you learned with anyone else. It is your obligation to keep the information confidential, except for reporting obligations to the Title IX Coordinator.
  - a. You can only share with a supervisor/superior that you've made a report without sharing specifics.
  - b. You can provide a supervisor/superior with the name(s) of the Title IX or Deputy Coordinator so he/she can follow up directly with any concerns or questions.
  - c. If the incident represents a potential wider threat to the Department, it is permissible to inform the Biology Chair. However, you should tell the complainant that the information will be shared with the Chair.
  
7. Current Reporting Contacts (*Fall 2022*)
  - a. **Title IX Coordinator:** Jennifer Kincaid, (812) 855-4889, [ojie@iu.edu](mailto:ojie@iu.edu)
  - b. **Deputy Coordinator:** Libby Spotts, (812) 855-5419, [osc@indiana.edu](mailto:osc@indiana.edu)
  - c. **Report an incident online:** <https://stopsexualviolence.iu.edu/report/index.html>