POLICY PROHIBITING SEXUAL MISCONDUCT

Introduction

The University is committed to fostering an atmosphere free from sexual harassment, sexual violence, and other sexual misconduct (all referred to in this policy as “sexual misconduct”). This commitment includes identifying problems that may lead to sexual misconduct, creating an atmosphere in which the entire University community is sensitive to preventing sexual misconduct and effectively responding when a student, visitor, guest, or program participant believes they may have been the victim of sexual misconduct. An important part of fostering an atmosphere free from sexual misconduct is stating clearly that retaliating (getting back) against a person who reports sexual misconduct or who is involved in an investigation or proceeding concerning sexual misconduct is prohibited. The University strongly encourages any student, visitor, guest, or program participant who feels he or she has been a victim of sexual misconduct to report the sexual misconduct. Included in this policy is specific information about reporting options.

The University strongly supports an individual’s desire for confidentiality in cases involving sexual misconduct. An individual has the option of requesting that a report of sexual misconduct be kept confidential, that his or her name not be disclosed to the other student, and that no investigation or disciplinary action be taken against the other student. In such cases, the University will make a careful assessment to determine if such requests can be honored while still providing a safe environment for all students and other members of the University community. Included in this policy is specific information about the levels of confidentiality provided by law.

Human sexuality involves our whole being as persons. It includes powerful emotions and extreme intimacy with profound psychological, physical, and spiritual implications. Ill-advised intimacy can leave one feeling guilty and lonely. In addition, sexually active individuals should be conscious of the threat of sexually transmitted diseases and should make themselves aware of the various ways to prevent transmission of sexually transmitted diseases.

It is the responsibility of all members of the University community to be familiar with this Sexual Misconduct Policy in order to determine appropriate or inappropriate sexual behavior and to engage in the appropriate processes for reporting and resolving a violation of this policy. This policy applies regardless of sexual orientation or gender identity. Questions about this policy may be directed to the Title IX coordinator, Office of the Dean of Students, Office of Safety and Security, Office of Counseling Services, Office of Human Resources, or the residence life staff.

Important Definitions

1. Definition of Consent
Consent is the basis for an appropriate sexual encounter. Consent must be present before an individual initiates a sexual encounter or moves on to a different kind of sexual activity during a sexual encounter. Individuals should speak openly and clearly to each other about their expectations and actions before engaging in sexual activity.

Consent is defined in this policy as the voluntary, unambiguous, and affirmative agreement to engage in a specific sexual activity during a sexual encounter. An individual who is asleep, or mentally or physically incapacitated, either because of the effects of alcohol or drugs, or for any other reason, is unable to give consent. In addition, an individual who participates in sexual activity because of force, the threat of force, duress, intimidation, or coercion is unable to give consent.

Consent may not be taken for granted because of the existence of a prior or current relationship or because of prior sexual activity.

Consent must take the form of clearly understandable words or actions. These words or actions must state the individual’s agreement to engage in a specific sexual activity. While an individual may consent to one level of sexual activity (e.g., kissing), consent must also be present to take this sexual activity to a more intimate level (e.g., the touching or stroking of a partner’s genitals).

Consent should not be implied because of the way a person dresses, because someone has agreed to go on a date, or because of an invitation to return to a residence hall or fraternity/sorority sleeping room.

Alcohol may impair an individual’s ability to make voluntary and clearly understood choices. It is very important that before engaging in any form of sexual activity, a partner’s intoxication level be taken into account. It is always the responsibility of the person initiating the sexual activity to ensure consent has been effectively communicated, and the participating individual retains the ability to provide consent before and during the sexual activity. Engaging in sexual activity while under the influence of alcohol or with a partner who is under the influence of alcohol may lead to bad things happening: things that may ruin an individual’s college experience or career plans.

2. Definition of Complainant
Complainant is defined as a student, visitor, guest, or program participant who reports they have been the victim of sexual misconduct.

3. Definition of Respondent
The Respondent is defined as a student who is alleged by the Complainant to have committed an act or acts of sexual misconduct.

4. Definition of Sexual Misconduct
Sexual misconduct is a broad term that includes sexual violence, sexual harassment, creating a hostile environment, sexual exploitation, domestic violence, dating violence, stalking, retaliation, and intimidation. Sexual misconduct is of a nonconsensual nature if the Complainant objected or clearly attempted to object to the conduct, or if his or her capacity to consent was substantially impaired by reason of physical force, threat, or intimidation, lack of opportunity to object, physical or mental disability, drug or alcohol consumption, or other voluntary or involuntary cause.

5. Definition of Sexual Assault
Sexual assault refers to any actual, attempted, or threatened form of nonconsensual sexual intercourse or other sexual conduct of a forcible, threatening, or otherwise nonconsensual nature. This includes rape, attempted rape, deviant sexual conduct, sexual battery or forcible fondling, deviant sexual behavior, incest, and statutory rape.

6. Definition of Sexual Harassment
Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment creates a hostile, intimidating, or offensive environment. It can include, but is not limited to, unwelcome sexual advances, requesting, offering, or suggesting a trade of sex for a desired result. Sexual harassment also includes verbal, nonverbal, or physical conduct of a sexual nature if the con-
duct is sufficiently severe, persistent, or pervasive to interfere with or limit a student or a member of the University communities’ ability to participate in or benefit from the academic, educational, extra-curricular, athletic, or other programs of the University.

Some examples of sexual harassment include:
- Sexually explicit profanity
- Sexual humor or sexually suggestive language
- Unnecessary remarks about parts of the body
- Obscene gestures
- Cyberbullying that is based on gender or sexual activity
- Unwelcome touching
- Sexual assault or violence
- Inappropriate remarks about a person’s gender or sexual orientation
- The display of sexual pictures or images
- Forced sexual activity
- The use of electronic media (like e-mail or text messaging) to send sexually charged words, images, or messages

All forms of sexual misconduct identified in this policy are also prohibited forms of sexual harassment.

7. Definition of Sexual Exploitation
Sexual exploitation refers to any situation in which sexual advantage of another person is taken without that individual’s consent. This includes voyeurism and recordings (photo, audio, or video) of sexual activity (sometime referred to as “revenge porn”), administering alcohol or drugs without consent, exposure of one’s genitals, buttocks, or breasts, and providing opportunities for others to view consensual sexual activity without the knowledge and consent of all parties to the consensual sexual activity.

8. Definition of Domestic Violence
Domestic violence is defined as student-on-student violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Indiana.

9. Definition of Dating Violence
Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship is determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence would include, but would not be limited to, sexual or physical abuse or the threat of such abuse.

10. Definition of Stalking
Stalking is defined as 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 complainant to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity.

11. Definition of Intimidation
Intimidation occurs when a person communicates in any manner a threat to another person with the intent that the other person engage in sexual conduct against the other person’s will.

12. Definition of Retaliation
Retaliation occurs when an effort is made to get back at any person because he or she reports sexual misconduct or opposes sexual misconduct or who is involved in an investigation of reported sexual misconduct. Retaliation is also prohibited against any member of the investigative team, witnesses, or individuals involved with the investigation or adjudication of a report or complaint of sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against a person because of their complaint or involvement in the complaint process. The University will take prompt and appropriate action to investigate retaliation, and it will take strong responsive action against anyone who engages in retaliation. This prohibition against retaliation should be seriously considered by the respondent and the friends and family of the respondent.

13. Definition and Identity of the Title IX Coordinator
Tracey Folden, assistant vice president for academic affairs, is responsible for overseeing Title IX compliance and she is the Title IX coordinator. Her office is located in Room 204 of Olmsted Hall. Her telephone number is 812-488-2509. Her e-mail address is tf91@evansville.edu. It is the responsibility of the Title IX coordinator to ensure that the University’s Policy is followed with respect to reporting, investigating, and responding to allegations of sexual misconduct. The Title IX coordinator will enlist the assistance of other university employees to facilitate the appropriate response to any allegation of sexual misconduct. Questions regarding Title IX should be directed to Austin. In addition, questions regarding Title IX may also be addressed to the Office of Civil Rights, United States Department of Education, at 500 W. Madison Street, Suite 1427, Chicago, Illinois 60661.

14. Definition of Responsible Employee
A responsible employee must report incidents of sexual misconduct to the Title IX coordinator or other appropriate school designee. This includes information about incidents a responsible employee knows or reasonably should have known about. For the purposes of this policy, a responsible employee is defined as a University employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct or other student misconduct, or who a student could reasonably believe has this authority or duty. The following employees are considered responsible employees: all full-time, part-time, visiting, and volunteer faculty, administrators, staff, coaches, and resident assistants.

A responsible employee must report the incident, including all relevant details. This includes the names of the Respondent (if known), the name of the student, visitor, guest or program participant who experienced the sexual misconduct, other students involved in the alleged sexual misconduct, as well as relevant facts, including the date, time and location of the alleged misconduct to the Title IX coordinator, Michael Austin, executive vice president for academic affairs or his designee; the Office of Safety and Security; the Human Resources Department; the Dean of Students office; or the residence life staff. To the extent practicable, information reported to a responsible employee will be shared only with the university officials responsible for responding to the report.
Scope of Policy
This policy applies to prohibited conduct both on campus and away from campus, regardless of where sexual misconduct takes place, if the conduct occurs in the context of a University-sponsored or sanctioned education program or activity. This policy also applies if the conduct has continuing effects on campus or in an off-campus education program or activity. This policy applies to all students regardless of sexual orientation or gender identity. If the University believes there is reasonable cause that prohibited conduct has occurred; the University reserves the right to initiate an investigation regardless of whether or not the case is reported to law enforcement agencies. The University may impose sanctions if the prohibited conduct occurs on University-owned or leased property, in other locations (such as off-campus houses), at University functions (including off-campus functions) or in connection with a University-sponsored organization, program, or activity if the conduct had continuing effects on campus or in an off-campus education program or activity. The University reserves the right to contact law enforcement authorities for action separate from or in addition to University disciplinary action.

Scope of Confidentiality
When Reporting Sexual Misconduct
The University encourages all students who believe they have experienced some form of sexual misconduct (hereinafter called the “complainant”) to talk to somebody about what happened. This allows the complainant to get the support they need and the University to respond appropriately. Different employees on campus have different abilities to maintain a victim’s confidentiality.

A complainant has the following options to choose from when reporting sexual misconduct:

Reporting Option One:
Professional and Pastoral Counselors
The University’s professional, licensed counselor(s) (including those who act in that role under the supervision of a licensed counselor) and pastoral counselors who provide mental-health counseling to members of the University community are not required to report any information about an incident to the Title IX coordinator without the complainant’s permission. The following is the contact information for these individuals:

1. Sylvia Buck, LCSEW, director of counseling services, University Counseling Center
   Room 200, Ridgway University Center
   812-488-2663, sb79@evansville.edu

2. Karen Stenstrom, LCSW, counselor, University Counseling Center
   Room 200, Ridgway University Center
   812-488-2663, ks96@evansville.edu

3. Reverend Tamara Gieselman, University Chaplain, Neu Chapel
   812-488-2240, tg85@evansville.edu

While these professional counselors may maintain a complainant’s confidentiality as it relates to the University, they are required by Indiana law to report:

a. If they believe there is imminent danger of self-harm.
b. If there is reason to believe that child, elder, or dependent abuse has occurred.
c. If the alleged sexual assault has occurred to an individual under the age of 18.
d. If threats of violence toward another person have been expressed.
e. If federal law enforcement officials request information under the United States Patriot Act.
f. Under court order, subpoena, or as otherwise required by law.

Reporting Option Two:
Non-Professional Counselors and University Health Center Employees
Individuals who work or volunteer in the University’s Crayton E. and Ellen Mann Health Center, including non-professional unlicensed counselors, front desk employees, and students who work in the health center, can generally talk to a victim without revealing to the University any personally identifying information about an incident. A complainant can seek assistance and support from these individuals without triggering a University investigation that could reveal the complainant’s identity or that the complainant has disclosed the incident.

However, while maintaining a complainant’s confidentiality, these individuals or their office will report the nature, date, time, and general location of an incident to the Title IX coordinator. This limited report—which includes no information that would directly or indirectly identify the complainant—helps keep the Title IX coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX coordinator, these individuals will consult with the complainant to ensure that no personally identifying details are shared with the Title IX coordinator.

While these non-professional counselors, employees, and volunteers may maintain a victim’s confidentiality as it relates to the University, they are required by Indiana law to report:

a. If they believe there is imminent danger of self-harm.
b. If there is reason to believe that child, elder, or dependent abuse has occurred.
c. If the alleged sexual assault has occurred to an individual under the age of 18.
d. If threats of violence toward another person have been expressed.
e. If federal law enforcement officials request your information under the United States Patriot Act.
f. Under court order, subpoena, or as otherwise required by law.

Reporting Option Three:
Reporting to Responsible Employees
A responsible employee is a University employee who has the authority to redress sexual misconduct, who has the duty to report incidents of sexual misconduct or other student misconduct, or who a student could reasonably believe has this authority or duty.

When a complainant tells a responsible employee about an incident of sexual misconduct, the University will take prompt and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator or his designee all relevant details about the alleged sexual misconduct that is provided by the complainant—including the name of the complainant and respondent, any witnesses, and other relevant facts, including the date, time, and specific location of the alleged misconduct. To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University’s response to a report of sexual misconduct.

The following employees (or categories of employees) are the University’s responsible employees: all full-time, part-time, visiting, and volunteer faculty, administrators, staff, coaches, and resident assistants (RAs). Contact information for these employees is found at the following link: acelink.evansville.edu/directory.
Before a complainant reveals any information to a responsible employee, the employee will advise him or her of the employee's reporting obligations – and, if the complainant wants to maintain confidentiality, direct the complainant to the confidential resources described in Reporting Option One above.

If the complainant wants to tell the responsible employee what happened but also maintain confidentiality, the responsible employee will tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX coordinator, the responsible employee will also inform the Title IX coordinator of the complainant’s request for confidentiality.

**Reporting Option Four:**

**Reporting to Local Community Support Organizations**
The complainant may wish to report sexual misconduct to either of the following local community support organizations:

- Albion Fellows Bacon Center
- Domestic Violence Hotline: 812-422-5622
- Sexual Assault Hotline: 812-424-7273
- Holly’s House
  750 N. Park Drive
  Evansville, Indiana 47710
  812-437-7233

These organizations are not connected with or part of the University. The complainant should be sure to ask each organization about its policy concerning confidentiality and the provision of personally identifying information to law enforcement and other authorities before providing personally identifying information.

**How the University Will Evaluate a Request for Confidentiality**

If a complainant discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all students and members of the University community, including the complainant. A complainant should understand that if they want to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the respondent.

If the University honors the request for confidentiality, a complainant must understand that the University’s ability to meaningfully investigate the incident and pursue disciplinary action against the respondent may be limited. Although perhaps rare, there are times when the University may not be able to honor a victim’s request in order to provide a safe, non-discriminatory environment for all students and members of the University community.

The University has designated the following individual(s) to evaluate a request for confidentiality once a responsible employee is on notice of alleged sexual misconduct: Tracey Folden, assistant vice president for academic affairs and Title IX officer; Dana Clayton, vice president/dean of students; and Harold Matthews, director of safety and security.

When weighing a complainant’s request for confidentiality or that no investigation or discipline be pursued, these individuals will consider a range of factors, including the following:

a. whether there have been other sexual misconduct complaints about the same respondent;
b. whether the respondent has a history of arrests or records from a prior school indicating a history of sexual misconduct;
c. whether the respondent threatened further sexual misconduct against the victim or others;
d. whether the sexual misconduct was committed by multiple respondents;
e. whether the sexual misconduct was perpetrated with a weapon;
f. whether the complainant is a minor;
g. whether the University possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence);
h. whether the complainant’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors may lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, the University will more likely be able to respect the complainant’s request for confidentiality.

If the University determines that it cannot maintain a complainant’s confidentiality, the University will inform the complainant prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University’s response.

The University will also:

a. assist the complainant in accessing other available sexual misconduct advocacy, academic support, counseling, health or mental health services, and legal assistance both on and off campus;
b. consider other security and support, which may include issuing a no-contact order, helping arrange a change of living or working arrangements or class schedule (including for the respondent pending the outcome of an investigation) or making adjustments for completing assignments or tests; and
c. tell the complainant about the right to report a crime to campus or local law enforcement agencies, and provide the complainant with assistance if he or she wishes to make such a report.

**General Provisions**

**Rights of Alleged Student Perpetrators (Respondent) under the Family Education Rights and Privacy Act.** An alleged respondent has a right under the Family Educational Rights and Privacy Act ("FERPA") to request to inspect and review information about the Complainant’s allegations if the information directly relates to the Respondent and the information is maintained by the University as an education record. In such a case, the University must either redact the Complainant’s name and all identifying information before allowing the Respondent to inspect and review the sections of the complaint that relate to him or her, or must inform the Respondent of the specific information in the complaint that is about him or her. The University will make students, visitors, guests and program participants who file complaints aware of this right and explain how it might affect the University’s ability to maintain complete confidentiality.

**Amnesty for Complainants and Witnesses of Sexual Misconduct.** Reporting sexual misconduct is important. The University recognizes that an individual who reports sexual misconduct may be engaged in under-age drinking or drug use or other prohibited conduct at or near the time of the incident complained of. To encourage reporting under these circumstances, the University will not take disciplinary action against a complainant or against witnesses for their personal use of alcohol or drugs or for other prohibited conduct at or near the time of the incident complained of if such violations do not or did not subject other people to harm or result in destruction of property.

**Public Awareness Events.** Students may disclose their experiences with sexual misconduct at public awareness events like “Take Back
the University will advise a student, visitor, guest, or program partic-
a criminal complaint and a Title IX with the University at the same
during, or after the University's internal investigation. You may file
inal complaint against the Respondent. You may do so before,
be safely rendered, the bystander is strongly encouraged to contact
sexual misconduct. If a bystander does not believe assistance may
should carefully evaluate the situation and if they feel it is safe to
(bystander) may be in a situation, particularly a social situation,
list/ocr/complaintintro.html or calling 800-421-3481.
Right to File Criminal Complaint. You have the right to file a crim-
final complaint against the Respondent. You may do so before, to the University's internal investigation. You may file a criminal complaint and a Title IX with the University at the same
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inal complaint against the Respondent. You may do so before,
7. The right of the respondent to receive written notice at least 48 hours in advance of the Hearing Board meeting.
8. The right to consult with the student ombudsman.
9. While both parties may have an advisor of their choice, the advisor may not actively participate in the investigative or disciplinary process.

The University will strive to investigate a complaint about sexual misconduct, if appropriate, hold a hearing before a Sexual Misconduct Hearing Board (Hearing Board) and issue its post-hearing determination within a period of time no longer than 60 calendar days from the date of the complaint. This 60-day period does not include the time it takes to appeal an initial determination.

Interim Measures

Depending on the severity of the alleged sexual misconduct, the University may take interim measures before the completion of the investigation, hearing, and decision-making process. Such interim measures may include, but are not limited to:
1. A change in academic and extracurricular activity schedules so the complainant and respondent avoid contact.
2. A change in living and dining arrangements.
3. The offer of counseling to both the complainant and respondent.
4. Alternative testing arrangements, seeking incompletes, alternatives for course completion, and similar measures.
5. Increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred.
6. The opportunity to obtain health, mental health, academic support, and counseling services.

Pre-determination disciplinary or other action against a respondent will only be taken where, because of the severity and extent of the alleged conduct, such extraordinary action is appropriate.

Administrative Hearing Before Dean of Students

An administrative hearing may be conducted by the dean of students or her appointee in her absence. An administrative hearing is appropriate under certain limited circumstances such as where the respondent has accepted responsibility for the misconduct and the proposed sanctions, cases involving the violation of the sexual misconduct policy by a student organization, or cases where the circumstances are extremely sensitive in nature and both the complainant and respondent voluntarily and without coercion, request the case not be heard by the Sexual Misconduct Hearing Board. Whether an administrative hearing is appropriate will be determined by the Title IX coordinator. Administrative action by the dean of students in an administrative hearing will conclude complaints of sexual misconduct without further hearing(s).

Sexual Misconduct Hearing Board

If the Title IX coordinator determines that, based on the outcome of the investigation, a hearing on the allegations should be held, the hearing will be conducted by the Sexual Misconduct Hearing Board.

Five faculty members and five administrators will be appointed by the president to serve as a pool of members for the Sexual Misconduct Hearing Board. From the pool of members, the dean of students will select a total of three individuals from this pool to serve on the Sexual Misconduct Hearing Board (Hearing Board). The “Preponderance of Evidence” standard, (i.e., “more likely than not”) will be used by the Hearing Board. The Title IX coordinator will appoint one of these individuals to be presiding Hearing Board member. The dean of students will serve as an advisor to the Hearing Board. The presiding Hearing Board member will, in consultation with the dean of students or her designee, determine the outcome of all procedural and evidentiary issues raised at the hearing.

No individual may attend the Hearing Board hearing unless they serve as an advisor to the complainant or respondent or are otherwise permitted to do so by the presiding Hearing Board member. All Hearing Board witnesses will be separated, and no witnesses other than the complainant and respondent may be present in the hearing room during witness testimony.

The order of a Hearing Board hearing will be as follows:
1. The person initiating the complaint (complainant) will give his or her evidence of the sexual misconduct alleged. The complainant may choose not to participate in the hearing but does so with the understanding that it may impact the Hearing Board’s decision regarding whether or not sexual misconduct occurred and what the appropriate actions should be if it did occur. In place of the complainant, this evidence may be provided by the party responsible for the investigation of the allegations, such as the director of security.
2. The Hearing Board will ask questions of the complainant or the party responsible for the investigation.
3. The respondent will give his or her evidence of the sexual misconduct alleged.
4. The Hearing Board will ask questions of the respondent.
5. Any witnesses for either party may appear individually before the Hearing Board. The number of such witnesses will be pre-determined by the dean of students in consultation with the Title IX coordinator. Both parties will have the opportunity to present the same number of witnesses.
6. While both parties will have the opportunity to question each witness, the respondent will not be permitted to question the complainant directly.
7. The complainant may make a closing statement, including an impact statement and a description of the desired outcome from the hearing.
8. The respondent may make a closing statement.
9. The parties will leave the hearing at the same time in such a way to avoid contact with each other.

Hearing Procedures

1. The University will determine if the complainant needs to be present for the entire Hearing Board hearing.
2. If the University allows one party to be present during the entire Hearing Board hearing, it will do so equally for both parties.
3. When requested, the University will make arrangements so that during the Hearing Board hearing the complainant and the respondent do not have to be present in the same room at the same time.
4. The University will not require the complainant to be present at the Hearing Board hearing for the hearing to take place.
5. The University will not permit the parties to cross-examine each other. However, each party may submit written questions to the Hearing Board, and the Hearing Board will ask these questions on their behalf. These questions must be submitted to the Title IX coordinator, for transmittal to the Hearing Board at least 24 hours before the time the hearing starts. The Hearing Board shall determine if each question submitted is appropriate to ask.
6. Questions about the complainant’s sexual history with anyone other than the respondent will not be permitted.
7. The University will allow both parties to be accompanied to any University disciplinary proceedings and any related meetings by the advisor of their choice.
Notice of Outcome of Hearing Board Hearing

Both parties will be notified concurrently in writing (sent by e-mail first class mail) about the outcome of the complaint and appeal rights. The notification to the complainant, the University will provide: (i) a conclusion as to whether or not the alleged conduct occurred; (ii) any individual remedies provided to the complainant; (iii) any sanctions imposed on the respondent that directly relate to the complainant, and other steps the University takes or has taken to eliminate a hostile environment. As a result, the Hearing Board may either dismiss the complaint without further action or recommend one or more of the following sanctions: 1. Warning. The respondent is warned that his or her behavior is unacceptable to the University community. The respondent may also be warned that further violations will result in more severe disciplinary action. 2. Restitution. The respondent may be assessed charges for any damages or losses that may have resulted from the sexual misconduct. 3. Fines. The respondent may be assessed fines as appropriate in addition to charges for restitution. 4. Disciplinary Probation. Disciplinary probation may be accompanied by additional sanctions or by special conditions including, but not limited to, required counseling. 5. Counseling. The respondent may be required to attend counseling. 6. Restricted access on campus, at University events, University housing, etc. 7. Restricted communication with other party or witnesses associated with the case. 8. Suspension. The Hearing Board will determine the appropriate length of time for the suspension. 9. Expulsion. Permanent separation of the respondent from the University and the University community.

The Hearing Board’s written decision will be sent by e-mail and first class mail concurrently to the complainant and the respondent. The notification to the respondent, the University will provide: (i) a finding as to whether or not the respondent is responsible for the violation; (ii) any individual remedies provided to the respondent; (iii) any sanctions imposed on the respondent that directly relate to the respondent, and other steps the University has taken to eliminate a hostile environment. As a result, the Hearing Board may either dismiss the complaint without further action or recommend one or more of the following sanctions: 1. Warning. The respondent is warned that his or her behavior is unacceptable to the University community. The respondent may also be warned that further violations will result in more severe disciplinary action. 2. Restitution. The respondent may be assessed charges for any damages or losses that may have resulted from the sexual misconduct. 3. Fines. The respondent may be assessed fines as appropriate in addition to charges for restitution. 4. Disciplinary Probation. Disciplinary probation may be accompanied by additional sanctions or by special conditions including, but not limited to, required counseling. 5. Counseling. The respondent may be required to attend counseling. 6. Restricted access on campus, at University events, University housing, etc. 7. Restricted communication with other party or witnesses associated with the case. 8. Suspension. The Hearing Board will determine the appropriate length of time for the suspension. 9. Expulsion. Permanent separation of the respondent from the University and the University community.

A request for an appeal must be made in writing and submitted by e-mail to the Title IX coordinator (tf91@evansville.edu) within five (5) business days (Monday – Friday) after the date the Hearing Board’s written decision is received by the appealing party. The Title IX coordinator will determine if an appeal may be taken. If a decision is made to hear the appeal, the non-requesting party will receive a copy of the appeal letter and notification that the appeal has been granted.

For an appeal hearing, the following process will followed: The Sexual Misconduct Appeals Hearing Board will comprise a total of three faculty members and administrators, selected by the dean of students from the pool of Hearing Board members. None of the Appeals Board members may have served on the original hearing board. The appeals board will make every effort to decide each appeal as quickly as possible, preferably within two weeks of the time the request for appeal was granted by the Title IX coordinator. The sanctions from the original hearing will be upheld, if applicable, until the appeal is heard.

The appeals board will meet, with all members present to review the transcript of the Hearing Board hearing and all evidence submitted to and accepted by the Hearing Board. After considering this material, the Appeals Board may: 1. Affirm the findings and sanctions determined by the Hearing Board; 2. Affirm the findings but adjust the severity of the sanction to a greater or lesser degree; 3. Reverse the finding and as such make a determination that, based on the “preponderance of evidence” standard, there was insufficient evidence to find the respondent committed the offense(s) complained of; 4. Reverse the Hearing Board’s decision and order a new hearing.

The Appeals Board’s written decision will be sent by e-mail and first class mail to both parties concurrently. No further appeal may be taken from a decision of the Appeals Hearing Board. The University reserves the right to modify the hearing and appeal procedures to provide for what in its sole opinion, is equitable treatment of the complainant and respondent.

This policy was drafted upon review of published sexual misconduct policies and guidelines from Depauw University, Northwestern University, Texas Women’s University, Washington University, Colorado State University Pueblo, Notalone.gov, ATIXA, Indiana Criminal Code, and the Department of Education.