



HUMAN RESOURCES POLICY

NUMBER/TITLE: HR-304, TITLE IX SEXUAL MISCONDUCT POLICY

Covered Individuals: UIU Employees and Students

Strategic Priority: SP 2.4

Covered Locations: All UIU Locations

HLC: Criterion 2

Effective Date: 08/14/2020

Consultations: EDHR, Univ. Policy Cmte.,

Last Revision: 08/14/2020

Title IX Team

POLICY STATEMENT

To provide an environment free of Sexual Misconduct and give guidance on Title IX procedures.

PURPOSE

The purpose of this policy is to fulfill UIU's obligations as a recipient of federal funding under Title IX of the Education Amendments Act of 1972 ("Title IX") and implement the policies, procedures, training, and record-keeping required by Title IX.

DEFINITIONS

Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment to the University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of UIU. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only UIU official with actual knowledge is the Respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the University. Notice as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

Advisor: A person selected to provide advice to a party for all, or a portion, of the grievance process. Complainants or Respondents may be accompanied by one Advisor, who is not a witness, to any Title IX related proceeding. Advisors are not mandatory, but only an Advisor may cross-examine other parties and witnesses during a live hearing. If a party does not have an Advisor for cross-examination, UIU will provide one for the purpose of conducting cross-examination during a live hearing. Cross-examination is the only time an Advisor may speak for a party or directly address another party.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Consensual Relationships: Consensual Relationships between faculty, students, coaches, and staff can create a conflict of interest when there is an actual or perceived power disparity between the consenting

parties. All UIU employees and students are required to adhere to the University's Consensual Relationships Policy, which can be found on the University's Policies and Reports web page.

Consent: Consent is sexual permission. Consent is active, not passive. Consent can be given by word or action, as long as those words or actions are clear, knowing, and voluntary, and create mutually understandable and clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent to any one form of sexual activity cannot be automatically taken as consent to any other form of sexual activity.

Previous relationships or prior consent cannot imply consent to future sexual acts. Consent can be withdrawn, once given, through word or action. Consent may be withdrawn by any word or action that a reasonable person would understand to withdraw consent.

Dating Violence: 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 shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Under the Clery Act and the Campus SaVE Act, UIU will record and report all relevant incidents of Dating Violence.

Domestic Violence: A felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the Complainant;
- a person with whom the Complainant shares a child in common;
- a person who is cohabiting with, or has cohabited with, the Complainant as a spouse or intimate partner;
- a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- any other person against an adult or youth victim who is protected from that person's acts under the applicable domestic or family violence laws.

Under the Clery Act and the Campus SaVE Act, UIU will record and report all relevant incidents of Domestic Violence.

Education Program or Activity: All programs and activities operated by UIU, including locations, events, or circumstances over which UIU exercises substantial control over both the Respondent and the context in which the alleged conduct occurs, including buildings owned or controlled by student organizations officially recognized by UIU.

Formal Complaint: A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University investigate the allegation of sexual harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in a UIU Education Program or Activity. A Formal Complaint may be filed with the Title IX Coordinator in person during business hours at the Human Resources Office on the 1st Floor of Alexander-Dickman Hall; by mail to Tim L. Guyer, Title IX Coordinator, 605 Washington Street, P.O. Box 1857, Upper Iowa University, Fayette, IA 52142; or at any time by e-mail to guyert95@uiu.edu. A Formal Complaint must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

Incapacitation: Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g. to understand the "who, what, when, where,

why, or how” of their sexual interactions). Incapacitation can occur mentally, physically, from developmental disability, by alcohol or other drug use, or blackout. The question of what the Respondent should have known is objectively based on what a reasonable person in the place of the Respondent, sober and exercising good judgment, would have known about the condition of the Complainant. Sexual activity with someone you know to be or should know to be incapacitated is without consent. This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, involuntary physical restraint or from the taking of rape drugs. Possession, use, and/or distribution of rape drugs including, but not limited to, Rohypnol, Ketamine, GHB, and Burundanga are prohibited.

Investigators: Individuals assigned to conduct investigations of alleged misconduct. Investigators may be UIU staff or faculty or appropriately trained individuals external to UIU.

Preponderance of the Evidence: The standard used by UIU to determine if a policy violation occurred. Preponderance of the evidence means that the information/evidence demonstrates that it is more likely than not that the alleged conduct or policy violation has occurred.

Remedies: Measures to restore or preserve the Complainant’s equal access to UIU’s Education Programs and Activities.

Respondent: Person who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Responsible Employees: Responsible Employees are University officials who have the authority to institute corrective measures on behalf of the University. Along with the Title IX Coordinator and the Deputy Title IX Coordinators, the following employees of UIU are Responsible Employees: Members of President’s Council, Deans, Assistant Vice Presidents, Assistant Deans, Executive Directors, Directors (except Counseling Center staff), Associate Athletic Directors, full-time Student Life staff, Department Chairs, and Graduate Program Directors. A Responsible Employee’s knowledge of sexual harassment or allegations of sexual harassment constitutes Actual Knowledge by the University. When the Title IX Coordinator and/or any Responsible Employee has notice of sexual harassment or allegations of sexual harassment, UIU is obligated to respond promptly, including by offering Supportive Measures.

Retaliation: Intimidating, threatening, coercive, or discriminatory conduct directed to an individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing.

Sexual Assault: Any nonconsensual sexual act or any sexual act with a Complainant lacking capacity to consent including, without limitation:

- Rape, sexual battery, sexual abuse, fondling, incest, statutory rape, and sexual coercion;
- Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force;
- Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch a person or themselves with or on any of these body parts, that is without consent and/or by force;
- Any sexual intercourse, however slight, with any object, by a person upon another person that is without consent and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

Sexual Harassment: Sexual Harassment includes:

- **Quid Pro Quo Sexual Harassment:** Occurs when a UIU employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
- **Unwelcome Conduct Sexual Harassment:** Conduct on the basis of sex that is unwelcome and is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an Education Program or Activity of UIU.
- **Sexual Assault, Dating Violence, Domestic Violence, and Stalking.**

Sanctions: Disciplinary action imposed upon a Respondent after a determination of responsibility following a grievance process that complies with this policy and Title IX. Sanctions may include but are not limited to the following: verbal or written warnings, probation, no-contact directives, suspension, remedial training, restitution, probation, suspension, transcript notation, termination of employment, or expulsion from the University.

Stalking: Stalking occurs when a person engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

Supportive Measures: Services offered to a Complainant or Respondent to restore or preserve equal access to UIU's Education Programs and Activities, protect the safety of any party or the UIU community, or deter sexual harassment. Supportive Measures are non-disciplinary, non-punitive, and confidential to the extent possible. Supportive Measures may be offered even if a Complainant does not submit a Formal Complaint. Supportive Measures may include ongoing steps to protect parties from retaliation or harm; providing an escort to ensure safe movement between classes, work, and activities; assistance in accessing advocacy services, academic support, counseling, disability services, health or mental health services, and legal assistance; issuing a no contact directive; helping arrange a change of living or working arrangements or course schedules; adjustments for assignments or tests; alternative course completion options; temporary withdrawal or leave from the University; and any other measure that can be tailored to the parties to achieve the goals of this policy. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

POLICY IMPLEMENTATION

Upper Iowa University (UIU or University), is committed to the principles of equal opportunity and seeks to establish and maintain a safe and healthy environment for all members of the UIU community. UIU provides programs and activities in an educational environment that fosters courtesy and respect. In compliance with Title IX, this policy sets forth the procedures that apply when the University has actual knowledge of allegations of quid pro quo sexual harassment, unwelcome conduct sexual harassment, sexual assault, dating violence, domestic violence, and stalking within its education programs and activities within the United States. The policy sets forth the specific types of conduct that are prohibited by this policy, as well as the resources and support services available to those in the UIU community who are impacted by sexual misconduct.

This policy applies to students, employees, and applicants for employment and admission who participate or attempt to participate in UIU's education programs and activities, regardless of sexual orientation or gender identity.

This policy applies to conduct that takes place in UIU education programs and activities, including locations, events, or circumstances over which UIU exercises substantial control over both the Respondent and the context in which the alleged conduct occurs. This includes conduct within property owned or controlled by UIU, buildings owned or controlled by student organizations officially recognized by UIU, and technology resources owned or provided by UIU.

Other policies, including but not limited to UIU’s Discrimination, Harassment, and Retaliation Policy, may apply to sexual harassment, discrimination, and other misconduct that does not meet the Title IX jurisdictional requirements and/or the Title IX definitions for prohibited conduct.

II. NOTICE OF NON-DISCRIMINATION

UIU is committed to maintaining a fair and respectful environment for work, study and participation in the life of the University. UIU expressly prohibits any member of the University community from harassing or discriminating against any employee or student of the University because of that person’s race, color, national origin, ethnicity, creed, religion, age, disability, sex, gender, gender identity, sexual orientation, pregnancy, veteran status, genetic information and other characteristics protected by law (“protected class”).

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, and its implementing regulations (34 C.F.R. Part 106, as amended by 85 FR 30026 (May 19, 2020)), a federal law that provides that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Prohibited conduct under this policy is also prohibited under the Clery Act as amended by VAWA, Title VII of the Civil Rights Act of 1964, and other applicable statutes, regulations, and administrative code provisions. The requirement of non-discrimination in educational programs and activities extends to employment and admission.

Incidents of protected class harassment or discrimination will be met with appropriate disciplinary action, up to and including dismissal or termination of employment from the University. The University is committed to preventing or stopping discrimination or harassment whenever it may occur at the University or in its sponsored activities.

Questions regarding this statement may be directed to the Title IX Coordinator/Executive Director, Human Resources, Assistant Vice President for Student Life, or Compliance Coordinator. Inquiries or complaints concerning the application of Title IX may be referred to UIU’s Title IX Coordinator, the United States Department of Education, or the Office for Civil Rights that covers your campus or center:

Title IX Coordinator Tim Guyer Executive Director, Human Resources Upper Iowa University 563-425-5959 guyert95@uiu.edu	Chicago Office [covers IL, IA, WI] Office for Civil Rights U.S. Department of Education John C. Kluczynski Federal Building 230 S. Dearborn Street, 37th Floor Chicago, Illinois 60604 Telephone: 312-730-1560 E-mail: OCR.Chicago@ed.gov TDD: 800-877-8339
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<p>U.S. Department of Education Office for Civil Rights (OCR) 400 Maryland Avenue, SW Washington, DC 20202-1100 Customer Service Hotline #: (800) 421-3481 TTY#: (800) 877-8339 E-mail: OCR@ed.gov Web: http://www.ed.gov/ocr</p>	<p>Denver Office [covers AZ] Office for Civil Rights U.S. Department of Education Cesar E. Chavez Memorial Bldg. 1244 Speer Blvd., Suite 310 Denver, CO 80204-3582 Telephone: 303-844-5695 E-mail: OCR.Denver@ed.gov</p>
<p>Kansas City Office [covers KS, OK] Office for Civil Rights U.S. Department of Education 1010 Walnut Street, Suite 320 Kansas City, MO 64106 Telephone: 816-268-0550 E-mail: OCR.KansasCity@ed.gov</p>	<p>Dallas Office [covers LA, TX] Office for Civil Rights U.S. Department of Education 1999 Bryan Street, Suite 1620 Dallas, TX 75201-6810 Telephone: 214-661-9600 E-mail: OCR.Dallas@ed.gov</p>

III. Resources

A. Medical Assistance

UIU encourages students and employees to seek medical assistance as soon as possible after a sexual assault to allow for diagnosis and treatment of any injuries or other physical effects and to properly collect and preserve evidence. There is a limited window of time after a sexual assault to preserve physical and other forms of evidence. Gathering such evidence does not commit an individual to pursuing legal action but does preserve that option.

Individuals should try not to shower, bathe, douche, urinate, rinse mouth, brush teeth, drink liquids, or change clothes to allow for maximum possible collection of evidence by a Sexual Assault Nurse Examiner (SANE) nurse or other health care provider. If clothing has been changed since the assault, bring the clothing worn at the time of the assault to the hospital in a clean, sanitary container such as a paper bag or wrapped in a clean sheet (plastic containers do not breathe and may render evidence useless). If clothing has not been changed, bring a change of clothes to the hospital, if possible, as they will likely need to keep the clothes worn at the time of the assault as evidence. A support person may accompany you to the hospital and may be with you throughout the exam if desired. Leave all sheets, towels, etc. undisturbed so law enforcement may collect evidence.

A SANE nurse is a registered nurse who has been specially trained to provide comprehensive care to sexual assault survivors in a medical setting. SANE nurses are usually on call 24 hours a day, seven days a week (call the emergency room if you first want to speak to the nurse; they will refer you). The SANE nurse or other hospital staff member will assist with the medical evaluation, collect evidence, check for injuries, address possible pregnancy concerns and address the possibility of exposure to sexually transmitted infections. In Iowa, this exam in a hospital is paid for by the state. For students and employees at the Fayette campus, medical assistance following a sexual assault is available at:

Mercy Hospital (SANE nurse available) 201 8th Ave SE Oelwein, Iowa 50662 319-283-6000	Gundersen Palmer Lutheran Hospital 112 Jefferson Street, West Union, IA 52175 563-422-3811
Community Memorial Hospital 909 West 1st St. Sumner, Iowa 50674 563-578-3275	

For students and employees in locations other than the Fayette campus, medical assistance is available at the following hospitals:

Arizona

Banner Desert Medical Center 1400 S. Dobson Road Mesa, AZ 85202 480-412-3000

Illinois

OSF HealthCare 5666 E State St. Rockford IL 61108 815-395-5261

Iowa (outside Fayette area)

UnityPoint - St. Luke's Hospital 1026 A Ave NE, Cedar Rapids, IA 52402 319-369-7211	Mercy Medical Center 701 10th St SE, Cedar Rapids, IA 52403 319-398-6011
Mercy One West Des Moines Medical Center 1755 59th Pl West Des Moines, IA 50266 515-358-8000	Unity Point - Methodist West Hospital 1661 60th St. West Des Moines, IA 50266 515-343-1000
Genesis Medical Center - East campus 1227 East Rushome Street, Davenport, IA 52803 563-421-1000	Select Special Hospital 1111 West Kimberly Road Davenport, IA 52806 563-468-2000
MercyOne Waterloo Medical Center 3421 W 9th Street Waterloo, IA 50702 319-272-8000	UnityPoint - Allen Hospital 1825 Logan Ave Waterloo, IA 50703 319-235-3941
Unity Point - Trinity Bettendorf 4500 Utica Ridge Road Bettendorf, IA 52722 563-742-5000	

Kansas

Saint John Hospital 3500 S 4th Street Leavenworth KS 66048 913-680-6000	Irwin Army Community Hospital 650 Huebner Rd. Fort Riley KS 66442 785-239-7000
Geary County Community Hospital 1102 St. Mary's Rd. Junction City, KS 66441 785-238-4131	Ascension Via Christi Hospital 1823 College Ave. Manhattan, KS 66502 785-776-2800

Louisiana

Rapides Regional Medical Center 211 4th St. Alexandria, LA 71301 318-473-3111	Our Lady of the Lake 5000 Hennessy Blvd. Baton Rouge, LA 70808 225-765-6565
Beauregard Memorial Hospital 600 S Pine St. Deridder, LA 70634 337- 462-8611	Byrd Regional Hospital 1020 Fertitta Blvd. Leesville, LA 71446 337-239-9041
St. Bernard Parish Hospital 8000 West Judge Perez Dr. Chalmette, LA 70043 5 04-826-9500	

Oklahoma

Reynolds Army Health Clinic 4301 Wilson St. Ft. Sill, OK 73503 580 558-250	Comanche County Memorial Hospital 3401 W. Gore Blvd. Lawton, OK 73505 580 355-8620
Southwestern Medical Center 5602 SW Lee Blvd. Lawton, OK 73505 580 531-4700	

Texas

AdventHealth Central Texas 2201 S. Clear Creek Rd. Killeen, TX 76549 254-526-7523
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Wisconsin

Aurora Lakeland W3985 County Rd NN Elkhorn, WI 53121 262-741-2000	SSM Health St. Mary's Hospital 700 S. Park St. Madison, WI 53715 6 08-251-6100
UW Health University Hospital 600 Highland Ave. Madison, WI 53792 608-263-6400	UnityPoint - Meriter Hospital 202 S. Park St. Madison, WI 53715 608-417-6000
Aspirus Wausau Hospital 333 Pine Ridge Blvd. Wausau WI 54401 715-847-2121	Froedtert Hospital 900N 92nd Street Milwaukee, WI 53226 414-805-3000
Children's Hospital 8915 W. Connell Ct. Milwaukee, WI 53226 414-266-2000	Crossing Rivers Health 37868 US Hwy 18 Prairie du Chien WI 53821 608-357-2000
SSM Health St Mary's Hospital 3400 E Racine St. Janesville WI 53546 608-373-3000	Ascension All Saints 3801 Spring St. Racine, WI 53405 262-687-4011

B. Confidential Resources

After experiencing an act of sexual misconduct, students and employees may prefer to seek assistance from Confidential Resources for confidential services and support. Confidential Resources are not permitted to share any information with law enforcement, the Title IX Coordinator, or other University employees.

Resource	Telephone	Other Contact Information
Dir Counseling Counselor	563-425-5786 563-425-5883	counseling@uiu.edu counseling@uiu.edu
UIU Employee Assistance Program	1-800-854-1446: English 1-877-858-2147: Spanish 1-800-999-3004: TTY/TDD	www.lifebalance.net; User ID and password: “lifebalance”
Riverview Center: A trained sexual assault advocate is available to talk by phone, meet in person, and/or accompany an individual to the emergency room	563-380-3332 1-888-557-0310 (24-hour hotline staffed by trained sexual assault advocates)	http://www.riverviewcenter.org ; 1111 S. Paine Street, Suite F, Decorah, IA
National Sexual Assault Hotline	1-800-656- 4673	
Domestic Violence Hotline	1-800-383-2988	
Iowa Sexual Abuse Hotline	1-800-284-7821	
Iowa Domestic Abuse Hotline	1-800-942-0333	
Helping Services for Youth and Families (Domestic Abuse Resource)	1-800-383-2988 (24-hour Domestic Abuse Resource Line)	Oelwein, IA

C. Non-Confidential Resources

The following resources can provide assistance and support after a sexual misconduct incident. Information shared with these resources may result in UIU investigating the incident and taking further action under this, or another, UIU policy. UIU employees may not promise confidentiality unless their professional role is confidential, and they have received the report in that confidential capacity. Employees who become aware of incidents or allegations of sexual misconduct, including sexual assault, dating violence, domestic violence, or stalking, and have authority to institute corrective measures, must report the matter to the Title IX Coordinator even if the Complainant requests confidentiality.

Resource	Telephone	Other information
Fayette Police Department	911 (Emergency)	563-425-3500 (non-emergency)
UIU Campus Security (provided by Fayette Police Department)	563-425-5372	
UIU Resident Advisors	563-379-1407	
UIU Exec Director Human Resources	563-425-5959	1st fl. A-D bldg., Fayette
UIU Asst. VP Student Life	563-425-5765	2nd fl. Student Center, Fayette
UIU Dir. Student Accessibility Services	563-425-5949	2nd fl. Student Center, Fayette

III. The Grievance Process

A. Reporting

1. Individuals who have experienced or who have knowledge of activities that may constitute sexual misconduct under this policy, or under the Discrimination, Harassment, and Retaliation Policy, are encouraged to report those allegations to the Title IX Coordinator. Employees designated as Responsible Employees are required to report such allegations to the Title IX Coordinator.
2. The Title IX Coordinator will contact the Complainant promptly (usually within 2 business days) after receiving a report of sexual misconduct. During the initial meeting with the Complainant, which may occur in person, telephonically, or via videoconference, the Title IX Coordinator will:
 - Receive from the Complainant the allegations of sexual misconduct;
 - Discuss the availability of Supportive Measures and offer Supportive Measures;
 - Explain to the Complainant that Supportive Measures are available with or without the filing of a Formal Complaint;
 - Inform the Complainant of options for notifying law enforcement and accessing counseling services;
 - Explain to the Complainant the process for filing a Formal Complaint; and
 - Provide the Complainant with a copy of, or a link to, this policy and the Discrimination, Harassment, and Retaliation Policy.

3. After the initial meeting with the Complainant, the Title IX Coordinator will implement any reasonable Supportive Measures considering the Complainant's wishes regarding Supportive Measures and ensuring that any Supportive Measures are not punitive or disciplinary with respect to any Complainant or Respondent.
4. Third Party and Anonymous Reporting: Any individual may make an anonymous report concerning an allegation of sexual misconduct. An individual may report the incident without disclosing his/her name, identifying individuals involved, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact UIU's ability to respond or pursue appropriate action. Making an initial anonymous report does not prevent an individual from choosing to follow-up with additional information or through a different reporting option.

Anonymous reports may be made through the Lighthouse reporting system. Lighthouse may be reached on their website, which is www.lighthouse-services.com/uiu, by phone at (833) 350-0022, or by email at reports@lighthouse-services.com (UIU must be identified in the email). All reports will go to the Title IX Coordinator for review. Incidents may also be reported through <http://uiu.edu/experience/safety-security/report-an-incident-or-crime/>. Third parties are not entitled to information about UIU's investigation and response due to privacy concerns and applicable federal and state laws.

B. Formal Complaint

1. The Title IX Coordinator is obligated to initiate the grievance process in this policy only when a Complainant files or the Title IX Coordinator signs a Formal Complaint. The Title IX Coordinator will consider the Complainant's wishes and will only sign a Formal Complaint to initiate the grievance process against the Complainant's wishes after consideration of all the known circumstances. Only the Title IX Coordinator can override a Complainant's decision not to pursue a Formal Complaint and only when justified by circumstances. Regardless of whether a Formal Complaint is filed, the Title IX Coordinator will continue Supportive Measures as indicated and encourage the Complainant to seek assistance as needed.
2. Upon receipt of a Formal Complaint, the Title IX Coordinator will promptly (usually within 5 business days) send to the parties notice of the allegations. The notice will provide the following information:
 - The identity of the parties;
 - Sufficient details concerning the alleged conduct to permit the parties to prepare for an initial interview, including the date and location of the alleged conduct and the specific facts about the alleged conduct;
 - Respondents are presumed not responsible for the alleged conduct unless and until found responsible at the conclusion of the grievance process;
 - Parties have the right to select an Advisor of their choice, who may be, but is not required to be, an attorney;
 - An explanation of the application of the Preponderance of the Evidence standard to be used in the hearing;

- A list of Supportive Measures available to both parties, including accommodations¹, if needed, to participate in any part of the grievance process.
- A list of potential Remedies and Sanctions UIU may impose; and
- A copy of, or a link to, this Title IX Sexual Misconduct Policy.

3. A Formal Complaint may be dismissed at any time during the grievance process for the following reasons:

- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- The Respondent is no longer a UIU student or employee; or • Circumstances prevent UIU from gathering enough evidence to reach a determination as to the Formal Complaint or allegations therein.

4. At any point after a Formal Complaint is filed, UIU will dismiss the Formal Complaint or allegations in the Formal Complaint if it determines the jurisdictional requirements or the definitions for prohibited conduct under Title IX have not been met. A party may appeal the decision to dismiss the Formal Complaint or specific allegations in accordance with the appeal process set forth in section IV.F of this policy. When a Formal Complaint is dismissed in whole or in part, UIU may take action to address the alleged conduct under another policy.

C. Informal Resolution Option

At any time after a Formal Complaint is filed and before a determination regarding responsibility, an informal resolution may be pursued if both parties consent to engage in the informal resolution process and the Title IX Coordinator agrees the case is appropriate for informal resolution. Informal resolution is not an option if the Title IX Coordinator determines it is inappropriate for any reason or if the Formal Complaint alleges: Sexual Harassment of a student by an employee; any form of sexual misconduct involving physical violence; and/or Sexual Assault.

Informal resolutions do not involve an investigation or hearing. If both parties agree to pursue informal resolution, the Title IX Coordinator will meet with each party separately to obtain voluntary and written consent to the informal resolution process and provide both parties a written notice disclosing the allegations and the requirements of the informal resolution process including:

- The parties will be precluded from resuming the formal grievance process once an informal resolution is agreed upon, in writing, by the parties.
- At any time before an informal resolution is agreed upon, in writing, by the parties, either party may withdraw from the informal resolution process, and the formal grievance process will resume.

¹ Students may initiate a request for accommodation with the Title IX Coordinator or by contacting Student Accessibility Services. Employees may initiate a request for accommodation with the Title IX Coordinator or Human Resources. Evidence from a healthcare professional to substantiate the need for accommodation will be required

The Title IX Coordinator is responsible for determining what method of informal resolution is appropriate for each specific case and may direct that the formal grievance process resume at any time for any reason, including if no resolution is reached informally after reasonable attempts over a reasonable amount of time (usually 30 days). When informal resolution is attempted, the Title IX Coordinator will designate an individual trained in dispute resolution to meet with the parties to attempt to reach an informal resolution.

D. Investigation

1. After the parties have received notice of the allegations, the Title IX Coordinator will appoint one or more trained individuals to investigate the allegations and prepare an investigative report. Investigators are trained to serve impartially and be free from conflicts of interest and bias.
2. Investigators are responsible for gathering evidence. Investigators have discretion to conduct the investigation and gather evidence in a manner suited to the allegations, the needs of the parties, and any unique circumstances within the requirements of Title IX. However, all investigations will include the following:
 - Written notice of the date, time, location, and purpose of any interview, meeting, or hearing when a party's participation is invited or expected, with enough time to prepare (usually 5 business days unless a party consents to shorter notice);
 - Equal opportunity for each party to select an Advisor of the party's choice to attend interviews, meetings, and hearings; • Interviews of each party conducted by the same investigator.
 - Equal opportunity for each party to provide the investigator with inculpatory and exculpatory evidence.
 - Parties who elect not to participate in the investigation will have the opportunity to offer evidence during the hearing and/or appeal stages of the process, though failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.
 - Equal opportunity for each party to provide the investigator with information regarding fact and expert witnesses.
 - Witness interviews if information provided by a party indicates there are witnesses with relevant information. Witnesses are expected to cooperate with and participate in UIU's investigation. Any witness scheduled to participate in a hearing must have been interviewed first by investigators unless all parties consent to the participation of that witness in the hearing.
 - A preliminary investigative report containing evidence gathered during the investigation. The report must be provided to all parties and Advisors simultaneously for their review and all parties must have an equal opportunity (at least ten days) to review and submit a written response to the evidence presented in the preliminary investigative report. The investigator must consider the responses submitted prior to completing the final investigative report.
 - A copy of the final investigative report fairly summarizing the relevant evidence must be provided to all parties and Advisors simultaneously at the conclusion of the investigation.

- The investigator must maintain a complete investigative file including records of interviews, all evidence, the preliminary investigative report, any written responses provided by the parties to the investigative report, and the final investigative report. The investigative file must be maintained for 7 years following the resolution of the case.
- Neither the investigation nor the hearing may include a party's medical or psychiatric records made by any medical professional or paraprofessional unless that party's voluntary, written consent to the use of such records is obtained.
- Neither the investigation nor the hearing may include the past sexual history or sexual character of a party except in the unusual situation that such information is determined to be relevant. All such information sought to be included will be presumed irrelevant, and any request to overcome this presumption by the parties must be reviewed by the Title IX Coordinator.

E. Hearing

1. After the investigation is concluded and the final investigative report is complete, the Title IX Coordinator will designate one or more individuals (usually 3 University employees but the Title IX Coordinator has discretion to designate non-employees) trained to serve impartially and free from conflicts of interest and bias to serve as decision-makers. The Title IX Coordinator will consult with the parties, their Advisors, and the decision-maker(s) and will determine a hearing date (usually between 5 and 20 business days after the final investigative report is provided to the parties).
2. Decision-makers are responsible for the orderly and civil conduct of the hearing. Decisionmakers have discretion to determine the order of the hearing in a manner suited to the evidence presented, the needs of the parties, and any unique circumstances within the requirements of Title IX provided the parties are treated equally. However, all hearings will adhere to the following:
 - Parties will have equal opportunity to present witnesses and other inculpatory and exculpatory evidence.
 - Parties will have equal opportunity to have an Advisor present.
 - Each party's Advisor will be permitted to ask the other party and any witnesses relevant questions and follow-up questions, including to challenge credibility. If a party does not have an Advisor at the hearing to conduct cross-examination, UIU will provide an Advisor to question the other party and any witnesses.
 - The hearing may be held in-person or remotely using videoconferencing that allows the parties to simultaneously see and hear the party or the witness answering questions. At the request of either party, UIU will utilize technology that allows the parties to be in separate rooms for a live hearing.
 - Decision-makers may exclude questions as not relevant but must explain any decision to exclude a question as not relevant.
 - If a party or witness does not submit to cross-examination, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility. • UIU must create an audio, audiovisual, or transcription of any live hearing and make it available to parties for inspection and review.

3. Decision-makers have sole authority to set and enforce hearing rules. Prior to the hearing, decision-makers may require parties and/or Advisors to attend a prehearing meeting with one or more decision-makers to review the hearing order and procedures. Provided the parties are treated equally, decision-makers may:

- Limit the time available for questioning each party and each witness;
- Limit the number of witnesses if the information to be provided is duplicative;
- Exclude character witnesses;
- Allow breaks for any reason, including to allow parties to consult with Advisors;
- Remove Advisors for questioning a party or witness in an abusive, intimidating, harassing or disrespectful manner. Advisors will be given one warning before removal unless the behavior, in the judgment of the decision-maker, is egregious enough to warrant immediate removal. If an Advisor is removed, the hearing will be suspended to permit an alternative Advisor to be obtained or assigned.

4. After considering the evidence presented in the hearing, the decision-maker(s) will apply the Preponderance of the Evidence standard of proof to the evidence presented and determine whether the Respondent is responsible or not responsible for each allegation. The decision-maker(s) will consult with the Title IX Coordinator regarding available sanctions and remedies and provide to the Title IX Coordinator a written determination regarding responsibility including:

- Identification of allegations that constitute conduct prohibited by Title IX;
- Description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of UIU's policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any sanctions to be imposed on the Respondent, and whether Remedies designed to restore or preserve equal access to UIU's Education Program or Activity will be provided to the Complainant; and
- UIU's procedures and permissible bases for the Complainant and Respondent to appeal.

After reviewing the written determination, the Title IX Coordinator will simultaneously provide the written determination to both parties. Sanctions when a Respondent is found responsible for sexual misconduct under this policy may include but are not limited to the following: verbal or written warnings, probation, no-contact directives, suspension, remedial training, restitution, probation, suspension, transcript notation, termination of employment, or expulsion from the University.

After a determination of responsibility, the Title IX Coordinator will consult with the investigator(s), the Complainant, and others as needed to determine appropriate remedies to restore or preserve the Complainant's equal access to UIU's Education Programs and Activities.

F. Appeals

1. Any Party may utilize the appeal process to appeal:

- The determination, following a hearing, that a Respondent is responsible or not responsible for alleged misconduct.
- UIU's decision to dismiss a Formal Complaint or any allegations within a Formal Complaint for not meeting the jurisdictional requirements or definitions of prohibited conduct under Title IX.

2. Appeals must be submitted within 5 business days after the written determination to be appealed is provided to both parties, and must be based on one or more of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- Evidence that the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

3. When an appeal is filed, the Title IX Coordinator will notify the other party and appoint one or more appeal decision-makers (usually a panel of 3) who were not previously involved in the case.

4. The appeal decision-maker(s) will determine whether the appeal is based on one or more of the three permissible bases for appeal. If the appeal is permitted, the parties will be notified that they may submit written statements in support of, or challenging, the determination regarding responsibility or the dismissal within 5 business days. If not, the parties will be notified that the original written determination stands and no appeal will be considered.

5. If the appeal is permitted and written statements are received, upon receipt of the written statements, the appeal decision-maker(s) will review and consider the statements, decide whether to uphold the original decision(s) or require additional proceedings to allow consideration of new evidence and/or remedy a procedural irregularity, conflict of interest, or bias that affected the original decision. The appeal decision-maker(s) will prepare a written decision describing the result of the appeal and the rationale for the result. The written decision will be provided to the Title IX Coordinator for review and the Title IX Coordinator will provide the written decision to the parties simultaneously and initiate any actions necessary to correct issues in the original decision. The decision made by the appeal decisionmaker(s) is final.

6. If the appeal decision-maker(s) remands the case for additional proceedings, the results of a revised investigation can be subsequently forwarded for reconsideration at the hearing level at the discretion of the Title IX Coordinator. If the appeal decision-maker(s) remands to the original decision-maker(s) for review, the reconsideration of the original decision-maker(s) is not appealable.

7. In rare cases where a procedural error cannot be cured by the original decision-maker(s) (as in cases of bias), the appeal decision-maker(s) may order a new hearing with new decisionmaker(s). The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals.

V. Additional Information

1. **False Reports:** The University will not tolerate intentional false reporting of incidents. It is a violation to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws.
2. **Parental Notification:** UIU reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. UIU may also notify parents/guardians of non-dependent students under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, UIU will contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. UIU also reserves the right to designate which University officials have a need to know about individual conduct reports pursuant to the Family Educational Rights and Privacy Act (FERPA), as amended.
3. **Amnesty for Alcohol and Other Drug Use:** The welfare of students, staff, and faculty is of paramount importance. The UIU community encourages the reporting of alleged sexual misconduct. Sometimes, students are hesitant to report to University officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. Similarly, students are sometimes hesitant to offer assistance to others for fear that they may get themselves in trouble. (For example, an underage student who has been consuming alcohol might hesitate to assist another student to seek help from Campus Security.) To encourage reporting, UIU provides reporters of sexual misconduct and students who offer assistance to others in need a limited immunity from being charged with policy violations related to the sexual misconduct incident. While policy violations cannot be completely overlooked, UIU will provide referrals to counseling and may require educational options in such instances.
4. **Law Enforcement Involvement and Cooperation:** Complainants will be advised that they may choose whether to report sexual misconduct to local police and, if requested, the Title IX Coordinator will assist the individual in contacting law enforcement. UIU will cooperate fully with law enforcement authorities involving situations of criminal misconduct. Regardless of whether a report is made to law enforcement, the University will conduct an investigation of incidents of sexual misconduct consistent with its obligations under Title IX. UIU's grievance process will proceed regardless of whether civil authorities take any action and UIU may find a Respondent responsible for prohibited conduct under these policies even if a legal standard for a conviction by civil authorities cannot be met. Similarly, UIU will not wait for any criminal investigation to conclude before undertaking its investigation.
5. **If a Complainant has obtained a restraining order or other no contact order against the Respondent from a criminal, civil, or tribal court, the Complainant should provide such information to the Title IX Coordinator. UIU will take all reasonable and legal action to honor the order.**

6. **Federal Statistical Reporting Obligations:** Under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), UIU has a duty to report statistical information regarding sexual misconduct, domestic violence, dating violence, and stalking occurring on campus or on non-campus property controlled or utilized by UIU. Personally identifiable information is not included, but information must be provided to Campus Security regarding the nature of the incident, the date it occurred, and its general location (e.g. on or off-campus, in residential housing, or in the surrounding area) for publication in the Annual Safety Report (ASR). This report helps to provide the community with a clear picture of the extent and nature of campus crime and security measures on campus, to ensure greater community safety.
7. **Federal Timely Warning Reporting Obligations:** UIU is required to issue immediate timely warnings for incidents confirmed to pose a substantial threat of bodily harm or danger to members of the University community. UIU will ensure that a victim's name and other identifying information is not disclosed while still providing enough information for community members to make safety decisions in light of the danger.
8. **Conflicts of Interest:** All those involved in decision-making with respect to this policy and process have been vetted for role-based conflicts of interest and UIU has determined that no such conflicts exist. If a Complainant or Respondent has any concern that an individual acting for UIU has a personal bias or a conflict of interest, such concern should be promptly reported to the Title IX Coordinator along with the basis for the concern. The Title IX Coordinator will review the written statement and make a determination as to whether there is a conflict of interest. If a conflict of interest exists between the Complainant or Respondent and the Title IX Coordinator, reports should be directed to UIU's President. If UIU's President is a party to the allegation or has a conflict of interest with respect to an allegation, the Chair of the UIU Board of Trustees shall ensure that UIU puts in place appropriate safeguards under the circumstances to ensure that UIU promptly and equitably responds to the allegation, including, but not limited to, appointment of alternate individuals to oversee adherence to the policy.
9. In compliance with Title IX, UIU maintains records of all Title IX proceedings for 7 years.

VI. Education and Prevention Programs

UIU is committed to educating and promoting community awareness about the prevention of sex discrimination and harassment, sexual harassment, sexual violence, stalking, domestic violence, dating violence, and sex- and gender-based harassment that does not involve conduct of a sexual nature. UIU offers programs to promote awareness and prevention throughout the year, including an overview of UIU's policies and procedures, relevant definitions (including prohibited conduct, discussion of the impact of alcohol and illegal drug use, and effective consent), the severity of sanctions for violations (including suspension and expulsion) and information about bystander intervention and risk reduction.

Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation. All educational programs include a review of resources and reporting options.

UIU complies in all respects with Title IX requirements for training its Title IX Coordinator(s), investigators, decision-makers, and individuals who facilitate Informal Resolution. Training materials related to Title IX are publicly available on UIU's website.

CUSTODIAN

The Office of Human Resources. The Title IX Coordinator is responsible for answering questions regarding the application of this policy

RELATED DOCUMENTS, FORMS, AND POLICIES

[Expectations of Complainants and Respondents](#)

[FAQs Regarding UIU Sexual Misconduct Policy](#)

[Title IX Coordinators Responsibilities](#)

[311 Consensual Relationships Policy](#)

[305 Discrimination Harassment and Retaliation Policy](#)

[706 Clery Act Compliance Policy](#)

HISTORY

New/Revision Number:	Date of Action/Approval	Revision Change
HR 304	1/19/18	Policy was recommended by the University Policy Committee
304	2/9/18	Policy was approved by the President's Council
304	2/23/18	Policy was approved by the Board of Trustees
304	7/15/19	Revised Policy was recommended by the University Policy Committee
304	7/31/19	Revised Policy was approved by the President's Council
304	8/3/20	New policy was recommended in principle by the University Policy Committee
304	8/12/20	New policy was approved by the President's Council and the President
304	8/14/20	Effective date of the policy revised to coincide with Title IX implementing regulations effective August 14, 2020
304	9/8/20	New policy was approved by the Board of Trustees
304	6/7/23	Reviewed and New Template