



Policy name: Sexual Misconduct Policy

Policy:

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Part A - General

Section 1. Purpose, Discrimination Prohibition and Scope

a. Purpose

The purpose of this policy is threefold:

- 1) To foster an educational and workplace environment free from Gender and sex discrimination, including Title IX Sexual Harassment and other Sexual Misconduct;
- 2) To encourage all members of the UIS community to report alleged violations of this policy; and,
- 3) To provide for appropriate corrective action when violations of this policy occur.

b. Discrimination on the Basis of Gender or Sex is Prohibited

UIS prohibits and does not tolerate Gender or sex discrimination, which includes Title IX Sexual Harassment and other Sexual Misconduct. To prevent discrimination on the basis of Gender or sex, UIS ensures access to equitable educational opportunities and program participation. No one is, on the basis of Gender, sex, or actual or perceived sexual orientation or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination under any UIS education program or activity.

UIS is committed to providing and preserving an educational and work environment free from all forms of Gender and sex discrimination, including Title IX Sexual Harassment and other Sexual Misconduct.

c. Scope

This policy applies:

- To all members of the UIS community, including all UIS students; employees; other affiliated individuals, including but not limited to, visiting faculty and visiting scholars; and third parties, including but not limited to contractors, subcontractors, volunteers, applicants for enrollment or employment, and visitors. Any person may report an alleged or suspected violation of this policy.

All references to UIS and "campus" include UIS's Springfield, Innovate Springfield, Peoria, and Emiquon Conservancy locations, as well as any other UIS premises, property, or facilities.

Section 2. UIS Title IX Coordinator

The UIS Title IX Coordinator coordinates UIS's efforts to comply with and carry out UIS's responsibilities under this policy, including the effective implementation of any remedies designed to restore or preserve equal access to UIS's education program or activity.

The UIS Title IX Coordinator receives concerns or reports by e-mail at titleix@uis.edu, by mail at Mail Stop 30 Human Resources Building University of Illinois Springfield, One University Drive, Springfield, IL 62703, or by phone at (217) 206-9999. The Title IX Coordinator is available to meet in-person upon request at the AEO Office (UIS Human Resources Building, Room 52) or at any other appropriate campus location.

Section 3. Definitions

For the definitions of key terms used in this policy, see Appendix A. Defined terms used in this policy begin with capital letters.

Section 4. Awareness, Education, and Counseling

a. Dissemination of the Sexual Misconduct Policy

UIS posts this policy and the associated procedures on the [UIS Title IX website](#) to ensure it is available to the entire UIS community. A copy of this policy will be provided to anyone upon request.

b. Education, Awareness, and Prevention Programs

UIS provides annual sex and Gender discrimination and Sexual Misconduct prevention and awareness training for all students. The content of this training is described in more detail at Appendix B.

Consistent with applicable federal and state law, UIS provides annual Sexual Misconduct prevention and Title IX Sexual Harassment training to all employees. UIS also ensures those individuals whose duties include resolution of complaints of student violations of this policy receive at least eight additional hours of annual training regarding issues related to Title IX Sexual Harassment and the UIS complaint resolution procedures.

c. Counseling Services

Confidential Advisors at the UIS Counseling Center provide emergency and ongoing support to student members of the campus community who report being victims of Sexual Misconduct. For more information about UIS Confidential Advisors and the services they provide, see Appendix C.

The Counseling Center also makes professional counseling services available to those students accused of committing Sexual Misconduct.

Employees requesting counseling services are provided information on accessing services available through the University's Employee Assistance Program or through other resource providers.

Section 5. Alleged Violations of this Policy

a. Reporting Options

Any person may report Sexual Misconduct involving UIS students; employees; other affiliated individuals, including but not limited to, visiting faculty and visiting scholars; and third parties,

including but not limited to contractors, subcontractors, volunteers, applicants for enrollment or employment, and visitors (whether or not the person reporting is the person alleged to be the victim), in person, by mail, by telephone, or by email, using the contact information listed for the UIS Title IX Coordinator in Section 2, or by any other means that results in the UIS Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. Reports may also be submitted [online](#), either confidentially, to the extent permitted by law, or anonymously.

In addition to notifying the Title IX Coordinator, persons believing they are the victim of Sexual Violence, Dating Violence, Domestic Violence, or Stalking, or who have information about the commission of such offenses, are encouraged to inform the UIS police or local police. For a more complete discussion of reporting options and actions, see Appendix D. For other incidents involving alleged inequitable treatment on the basis of sex, contact the Title IX Coordinator.

The Title IX Coordinator provides persons reporting as victims of Sexual Misconduct with their rights and options in writing concerning reporting the allegations, relevant contact information, available assistance, Supportive Measures, accommodations, and complaint resolution procedures.

b. Responsible Employee Reporting Requirements

UIS Confidential Advisors are not considered Responsible Employees. All other UIS employees, including student housing resident advisors but excluding all other undergraduate and graduate student employees, are considered Responsible Employees.

In order for UIS to respond effectively and proactively to prevent Sexual Misconduct, all UIS Responsible Employees must report any suspected Sexual Misconduct they become aware of to the Title IX Coordinator.¹ Reports should be made as soon as possible, but must be made within 48 hours of receiving the information. For a more complete discussion of Responsible Employee duties and responsibilities, see Appendix E.

Responsible Employees who witness or learn about alleged Sexual Misconduct and who fail to report such conduct in a timely manner may be subject to disciplinary action, up to and including termination of employment.

c. Supportive Measures

UIS's concern for student, employee, and community safety is paramount. Accordingly, UIS provides anyone reporting safety concerns, including Complainants and Respondents, with written notice regarding how to request Supportive Measures, such as changes to on-campus academic, living, transportation, and working situations. A non-exclusive list of Supportive Measures is found in Appendix F.

Supportive Measures are available whether or not a complaint is filed. The Title IX Coordinator assists with identifying Supportive Measures taking into account the parties' requests and is

¹Responsible Employees are not required to report disclosures made in connection with public awareness events when individuals do not intend to make a disclosure such as "Take Back the Night," candlelight vigils, protests, town hall meetings, survivor speak-outs, etc.

responsible for coordinating their effective implementation. UIS keeps the Supportive Measures confidential unless doing so would impair UIS's ability to provide them.

d. Emergency Removal

UIS may remove a Respondent from UIS Education Programs or Activities on an emergency basis. Any such removal will be based upon an individualized safety and risk analysis that determines the Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Misconduct justifying removal. Immediately after the removal, UIS will provide the Respondent with notice and an opportunity to challenge the decision.

e. Administrative Leave

Subject to applicable laws, regulations and policies, UIS may place Respondent on administrative leave during the pendency of the applicable grievance process.

f. Confidentiality

The Title IX Coordinator and all UIS administrators, supervisors, Responsible Employees, and others engaged in the administration or execution of this policy, keep confidential the identity of any individual who has made a report of Sexual Misconduct, any Complainant, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law, or to carry out the purposes of this policy, including but not limited to the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Although UIS does not restrict the ability of any party to discuss any Sexual Misconduct allegations under investigation or to gather and present relevant evidence, UIS requests those involved in the complaint resolution process to respect confidentiality, particularly when confidentiality is required to protect witnesses, prevent evidence from being destroyed, avert a threat that subsequent testimony would be fabricated, or prevent a cover-up.

Section 6. Students and Employees with Grievance Rights

Nothing in this policy overrides provisions in applicable state or federal law, University of Illinois or UIS governing documents, collective bargaining agreements, or other contractual obligations of the University of Illinois or UIS.

For State Universities Civil Service System employees found to have violated this policy and subject to the responsible administrator's recommendation that disciplinary action be taken, the employee is covered by "AN ACT TO CREATE THE STATE UNIVERSITIES CIVIL SERVICE SYSTEM" which specifies that "...no employee shall be demoted, removed or discharged except for cause, upon written charges, and after an opportunity to be heard in his own defense..." before an Advisory Committee of the Merit Board. Please contact Human Resources for additional information and assistance.

Section 7. Conflicts of Interest

Persons conducting functions pursuant to this policy, including but not limited to the Title IX Coordinator, Investigators, decision-makers, or anyone designated to facilitate an informal resolution process, must be free from conflicts of interest and bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

UIS officials with a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent must recuse themselves from taking any part in the Formal Complaint resolution process and notify the appropriate UIS or University of Illinois official so that a substitute can be designated. Either party concerned that an official with authority to make a finding or impose a sanction might have a conflict of interest or bias may request, in writing, a substitution of that official.

For additional information on how certain conflicts of interest are resolved, see Appendix G.

Section 8. Duty to Cooperate; Retaliation Prohibited

All University students and employees have a duty to cooperate with investigations under this policy and provide truthful information. This does not require the disclosure of information protected under a legally recognized privilege unless such privilege has been waived. Knowingly making false statements or knowingly submitting false information during the hearing process may result in discipline. A determination of responsibility, alone, is not sufficient to conclude that false information was intentionally provided.

It is a violation of Title IX and/or this policy to retaliate against a person for reporting in good faith an alleged or suspected violation of this policy, or for assisting, participating, or cooperating in an investigation of the same. UIS takes immediate and appropriate steps to investigate allegations of Retaliation and protects the Complainant, as necessary.

The reporting party can use the complaint resolution mechanisms specified in this policy to allege Retaliation. Retaliation is a basis for disciplinary action or sanctions up to and including termination of employment or dismissal/expulsion.

Section 9. Filing Complaints with External Agencies

Individuals believing they have experienced discrimination on the basis of Gender or sex at UIS have the right to initiate a complaint with an appropriate state or federal agency. For more information, see Appendix H.

Section 10. UIS-Wide Task Force

UIS sponsors a UIS-wide task force with members drawn from UIS staff, UIS students, the UIS Police, and the Peoria campus. Representatives from community-based organizations and local law enforcement are also invited to participate. The task force works toward improving UIS coordination with community leaders and service providers to prevent Sexual Misconduct and to

facilitate a coordinated response both in terms of law enforcement and victim services. UIS makes appropriate training available to task force members.

Section 11. Annual Reports

UIS provides no later than November 1st of each year a report concerning the immediately preceding calendar year to the Illinois Department of Human Rights and the Attorney General with all of the components required by Section 9.21 of the Illinois *Board of Higher Education Act* (110 ILCS 205/9.21).

Part B – Resolving Complaints Under Title IX

Section 1. Application

Part B applies to Title IX Sexual Harassment in a UIS Education Program or Activity allegedly occurring against a person in the United States.

Conduct prohibited by Title IX and addressed by this part may violate other laws and policies, depending on context and circumstances, e.g., discrimination on the basis of sex in employment violates Title VII of the Civil Rights Act of 1964, as amended, and UIS’s Non-Discrimination and Equal Opportunity Policy. Nothing in this policy prevents UIS from addressing Sexual Misconduct not covered by Title IX under other laws or UIS policies and procedures, including Part C, below.

If the regulations implementing Title IX at 85 Fed. Reg. 30026, 30026-30579 are enjoined or invalidated by a Federal Court with jurisdiction over UIS or reversed or replaced by any agency with sufficient authority, *Part C – Resolving Complaints Under Other Laws, Regulations, and Policies* will immediately begin to apply to all reports and complaints of Sexual Misconduct, including Title IX Sexual Harassment, and *Part B – Resolving Complaints Under Title IX* will immediately be inoperative unless and until any such injunction, invalidation, reversal, or replacement is overturned.

Section 2. Complaint and Investigation Procedures

a. Overview

UIS is committed to treating Complainants and Respondents equitably by:

- Promptly resolving all alleged or suspected violations of this policy;
- Providing remedies to a Complainant where a Determination Regarding Responsibility for Title IX Sexual Harassment has been made against a Respondent; and
- Following the grievance process set out in this policy before the imposition of any final disciplinary sanctions or other actions that are not Supportive Measures against a Respondent.

When the Title IX Coordinator becomes aware of an allegation that could constitute Title IX Sexual Harassment, the Title IX Coordinator promptly contacts the alleged victim, if known, to discuss the

availability of Supportive Measures, explain the alleged victim's rights and options, and explain the process for filing a Formal Complaint. To be eligible to file a Formal Complaint, a Complainant must be participating in or attempting to participate in a UIS Education Program or Activity.

After learning of their options and getting answers to any questions they may have, Complainants decide whether to file a Formal Complaint. If they choose not to file a Formal Complaint or if they are not eligible to do so, the Title IX Coordinator will still discuss with them available Supportive Measures.

UIS is committed to resolving complaints in a reasonably prompt timeframe. UIS strives to conclude the grievance process within 120 calendar days of complaint filing. UIS permits the temporary delay of the grievance process or limited extensions of time for good cause with written notice to the Complainant and Respondent of the delay or extension and reasons for the action. Good cause may include, but is not limited to, the unavailability of a party, a party's advisor, or a witness; concurrent law enforcement activity; complying with collective bargaining agreements, complying with other legal requirements, or the need for language assistance or accommodation of disabilities.

b. Formal Complaint Resolution Process

Complainants desiring to submit a written Formal Complaint alleging Title IX Sexual Harassment should submit it to the Title IX Coordinator in person, by regular mail, or email. Formal Complaints submitted by Complainants must be signed, either physically or digitally, or otherwise indicate that the Complainant is the person filing the Formal Complaint. At the time a Complainant files a Formal Complaint with the Title IX Coordinator, the Complainant must be participating in or attempting to participate in a UIS Education Program or Activity.

The Title IX Coordinator may also initiate the Formal Complaint process on her/his own accord after becoming aware of an allegation of Title IX Sexual Harassment involving UIS students or employees. In such cases, the Title IX Coordinator is not considered a Complainant or otherwise a party to the complaint and all requirements under this policy continue to apply.

For more information on the Title IX Formal Complaint resolution process, see Appendix I.

c. Investigating the Complaint

Formal Complaints that are not dismissed either by the Title IX Coordinator or on appeal are investigated by a trained Investigator. Investigations are conducted in a prompt, thorough, fair and impartial manner. As part of the investigation process, the Investigator initially identifies him/herself to the parties and gives each party the opportunity to request from the Chancellor or her/his designee a different Investigator if there is a conflict of interest. The burden of gathering evidence sufficient to reach a Determination Regarding Responsibility on the allegations rests with UIS, which uses the Investigator to collect evidence for the investigation and prepare a Report of Investigation.

Any pending criminal investigation or criminal proceeding may impact the timing of UIS's investigation, but UIS commences its investigation as soon as possible. UIS coordinates with law enforcement investigations and shares information to the extent permitted by law and as appropriate. UIS reserves the right to commence and complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

For more information on investigating complaints under Title IX, see Appendix J.

d. Title IX Informal Complaint Resolution Process

Depending upon the circumstances, the Complainant may desire to seek an informal resolution of the allegations of Title IX Sexual Harassment. Title IX informal complaint resolution is not available unless the Complainant has already filed a Formal Complaint. Participation in Title IX informal complaint resolution is completely voluntary on the part of all parties and any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. Title IX informal complaint resolution is not an option in cases where an employee is alleged to have engaged in Title IX Sexual Harassment against a student. For more information on the Title IX informal complaint resolution process, see Appendix K.

Section 3. Resolving Complaints

a. Hearings

Unless the parties voluntarily agree to resolve a Formal Complaint using a Title IX informal complaint resolution process, all Formal Complaints are resolved through a live hearing which allows both parties to participate equally.

For student Respondents, the Office of the Dean of Students initiates the hearing process by forwarding the Report of Investigation, together with any written responses submitted by the parties, to the Chair of the Executive Panel for a proceeding under the Student Conduct Code.

For employee Respondents, the employee's supervisors and Human Resources initiate the hearing process upon receipt of the Report of Investigation, together with any written responses submitted by the parties.

Upon completion of the grievance process, a written Determination Regarding Responsibility will be issued.

For more information on the Title IX hearing process, see Appendix L.

b. Evidence of Non-Title IX Misconduct

In the case of student Respondents, the Dean of Students reviews the Report of Investigation and the Determination Regarding Responsibility to determine if there is evidence of other Student Conduct Code violations. Similarly, in the case of employee Respondents, the employee's supervisors and/or other officials review the Report of Investigation and Determination Regarding Responsibility to determine if there is evidence of other violations of law or policy. If there is

evidence of non-Title IX violations, the disciplinary procedures applicable to those alleged violations are followed.

c. Documentation

UIS maintains the following records for a period of seven years:

- Title IX Sexual Harassment Reports of Investigation, Determinations Regarding Responsibility, recordings of hearings, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant;
- Any appeals and their results;
- Any Title IX informal complaint resolutions and their results; and
- All materials used to train the Title IX Coordinator, Investigators, Hearing Panel members, decision-makers on appeal, and any person who facilitates a Title IX informal complaint resolution process.
- Records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Title IX Sexual Harassment, together with the basis for concluding that the UIS response was not deliberately indifferent. If UIS does not provide a Complainant with Supportive Measures, UIS will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- Documentation that UIS took measures designed to restore or preserve equal access to its Education Program or Activity.

With the exception of training material posted on the UIS Title IX webpage, all records are confidential and are made available to persons outside of the process only as required or permitted by law.

Section 4. Appeals

Complainants and Respondents may appeal the Title IX Coordinator's decision regarding dismissal of a Formal Complaint or the Hearing Panel's Determination Regarding Responsibility. Parties may appeal only on the following grounds: (A) procedural irregularity that affected the outcome of the matter; (B) new evidence that was not reasonably available at the time the Determination Regarding Responsibility or decision regarding dismissal was made that could affect the outcome of the matter; and/or (C) the Title IX Coordinator, Investigator, Hearing Panel member, or decision-maker on appeal 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.

The procedures for appealing the Title IX Coordinator's decision regarding dismissal of a Formal Complaint are set forth in Appendix M.

The procedures for appealing the Hearing Panel's Determination Regarding Responsibility in student Respondent cases are set forth in the [Student Conduct Code Protocol for Alleged Violations of Part B \(Title IX\) of the UIS Sexual Misconduct \(Title IX\) Policy](#).

The procedures for appealing the Hearing Panel's Determination Regarding Responsibility in employee Respondent cases are set forth in the [Procedures for Alleged Violation of Part B \(Title IX\) of the UIS Sexual Misconduct Policy by Employees](#).

Both parties retain any rights to file a complaint with an appropriate state or federal agency or the courts in accordance with applicable law.

Part C – Resolving Complaints Under Other Laws, Regulations, and Policies

Section 1. Application

Part C addresses Sexual Misconduct under University of Illinois policies and state or federal laws other than Title IX of the Education Amendments of 1972 and its implementing regulations. Applicable policies and laws include, but are not limited to, the UIS Conduct Code for students, and Title VII of the Civil Rights Act of 1964, as amended, and UIS's Non-Discrimination and Equal Opportunity Policy for employees. Conduct addressed under this part may also violate Title IX and Part B of this policy.

Section 2. Complaint and Investigation Procedures

UIS is committed to the prompt and equitable resolution of all allegations of Sexual Misconduct. When UIS becomes aware of an allegation of Sexual Misconduct, UIS takes immediate and appropriate steps to investigate or otherwise determine what occurred (subject to confidentiality rules). If the evidence establishes that the alleged Sexual Misconduct occurred, UIS takes action reasonably calculated to end the misconduct, prevent its recurrence, and, as appropriate, remedy its effects.

UIS's ability to investigate in a particular situation may be affected by any number of factors, including whether the Complainant is willing to file a complaint or consent to an investigation, whether the Respondent is a UIS student or employee, where the alleged Sexual Misconduct occurred, and UIS's access to relevant information. UIS is nonetheless committed to investigating alleged Sexual Misconduct to the fullest extent possible.

Any pending criminal investigation or criminal proceeding may impact the timing of UIS's investigation, but UIS commences its own investigation as soon as possible. UIS coordinates with law enforcement investigations and shares information to the extent permitted and as appropriate. UIS reserves the right to commence and complete its own investigation prior to the completion of any criminal investigation or criminal proceeding.

a. Informal Resolution Process

In some situations, a Complainant may wish for the alleged conduct to be addressed but does not desire remedies that would involve going through the university's formal grievance process (e.g., punitive disciplinary sanctions). In these cases, the Complainant may request that the Title IX Coordinator facilitate an informal resolution if it is appropriate under the circumstances. For more information on the informal resolution process, see Appendix N.

b. Complaint Resolution Process

Any person may submit a complaint alleging Sexual Misconduct. Complaints are submitted in person or in writing to the Title IX Coordinator. Complaints covered by this part must be submitted within 180 calendar days of the occurrence of the matter being complained about. Complaints submitted outside this timeline are normally not investigated unless the Title IX Coordinator determines there is an ongoing risk to the safety of the UIS community, although Supportive Measures are generally available for current students and employees without regard to when the matter being reported occurred. The Title IX Coordinator may also initiate the complaint process on her/his own accord after becoming aware of possible Sexual Misconduct involving UIS students or employees.

For more information on the complaint resolution process, see Appendix O.

c. Investigating the Complaint

If the Title IX Coordinator determines that the issue or concerns presented, if true, would constitute a violation of applicable law or UIS policy, including this policy, s/he consults with the Complainant to determine if a formal investigation is appropriate. If a formal investigation is initiated, it is conducted in a prompt, thorough, fair and impartial manner by a trained Investigator, who may be the Title IX Coordinator. As part of the investigation process, the Investigator initially identifies him/herself to the parties and gives each party the opportunity to request from the Chancellor or her/his designee a different Investigator if there is a conflict of interest. The burden of gathering evidence sufficient to reach a determination regarding the allegations rests with the Investigator, who collects evidence for the investigation and prepares a Report of Investigation.

For more information on the investigation of complaints and the Report of Investigation, see Appendix P.

Section 3. Resolving Complaints

Unless the Complainant's concerns are resolved informally, complaints are resolved as follows.

For student Respondents, the Office of the Dean of Students receives the Report of Investigation, together with any written responses submitted by the parties, and addresses the complaint under the applicable hearing procedures of the Student Conduct Code.

For employee Respondents, the Title IX Coordinator reviews the Report of Investigation, together with any written responses submitted by the parties, and prepares a written determination regarding whether the Respondent committed the alleged Sexual Misconduct and, if so, recommends appropriate corrective options. The Respondent's supervisors or other officials may take appropriate disciplinary action applicable to the Respondent's employee group.

The standard for determining whether the alleged Sexual Misconduct occurred in both student and employee Respondent cases is whether it is more likely than not, based on the evidence, that the Respondent committed the Sexual Misconduct as alleged. This is the "preponderance of the evidence" standard of proof. The Title IX Coordinator encourages Complainants to report if any issues resume and/or if retaliatory conduct occurs. For more information on resolving complaints, see Appendix Q.

Section 4. Appeals

Complainants and Respondents may appeal the complaint outcome. See Appendix R.

Date approved by Chancellor's Cabinet: October 19, 2021

Date approved by Chancellor: October 19, 2021

Chancellor signature: /s/ Karen Whitney

Effective date: October 19, 2021