

## **Sexual Misconduct and Interpersonal Violence Policy and Process**

### **Definition and Statement of Policy**

#### **I. Preamble**

Sexual misconduct and interpersonal violence (defined below) are a violation of University policy and, depending upon the conduct involved, may be a violation of state criminal law. Sexual misconduct and interpersonal violence include a broad spectrum of behaviors including but not limited to: rape, non-consensual sexual contact, sexual battery, sexual exploitation, sexual harassment, gender-based harassment, relationship violence (including dating and domestic violence), and stalking. The University prohibits retaliation against any persons who, in good faith, reports or makes a complaint of sexual misconduct. Collectively, these behaviors are referred to in this policy as prohibited conduct. The University does not tolerate any form of sexual misconduct or interpersonal violence, and will promptly investigate and respond to any report made to the Title IX Coordinator or the university police, DePauw Public Safety. Conduct in violation of this Policy is subject to sanction by the University, up to and including expulsion. Conduct that potentially violates state law may result in criminal prosecution.

The University does not discriminate on the basis of sex or gender in any of its education or employment programs and activities, and it does not tolerate discrimination or harassment on the basis of sex or gender. The University has designated a Title IX Coordinator to oversee the implementation of this policy and to ensure compliance with Title IX of the Education Amendments of 1972 (Title IX) and relevant portions of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), Title VII of the Civil Rights Act of 1964, and other applicable law.

The purposes of this Policy are: 1) To provide a fair and impartial administrative process to investigate and address reports of prohibited conduct, resulting in prompt and equitable decisions reflecting the values of the DePauw community; 2) To establish and protect the rights of members of the DePauw community; 3) To promote the development of individual and group integrity; 4) To eliminate, prevent and address the effects of prohibited conduct in order to provide a learning, living, and working environment free from discrimination and harassment; and 5) To enforce the non-academic rules and regulations of the University.

This Policy is overseen by the Title IX Coordinator. Reports of prohibited conduct can be made to the Title IX Coordinator or DePauw Public Safety.

#### **II. Scope**

This Policy applies to conduct committed by a University student or student organization when the prohibited conduct occurs:

- (1) on campus;
- (2) in the context of a University-related program or activity, regardless of location, including, but not limited to University-sponsored study abroad, research, online or internship programs; or
- (3) off campus and outside the context of a University-related program or activity, but has continuing adverse effects on campus or in a University-related program or activity.

Reports against University employees, including faculty, will be addressed under the University's Harassment Policy.

### III. Key Policy Definitions

**Advisor:** an individual who provides the complainant or accused student or student organization support, guidance or advice. An advisor may be any person, including an attorney, who is not otherwise a party or witness. An advisor may accompany a student at any meeting to provide support, guidance or advice to the student during the meeting, but may not otherwise participate in the meeting unless requested to do so by the University. An advisor may not in any manner delay, disrupt, or interfere with meetings and/or proceedings. Advisors should plan to make themselves reasonably available, and the University will not unduly delay the scheduling of meetings or proceedings based on the advisor's unavailability. An advisor may be asked to meet with a University administrator in advance of any participation in the proceedings to understand the expectations of the role, privacy considerations, and appropriate decorum.

**Accused Student:** the student who has been accused of prohibited conduct.

**Coercion:** unreasonable pressure for sexual activity that is sufficient to overcome an individual's freedom of will whether to voluntarily consent to participate in the sexual activity.

**Complainant:** the individual who is reported to have experienced prohibited conduct, regardless of whether the individual makes a report or participates in a Title IX investigation.

**Consent:** clear, knowing and voluntary agreement to participate in sexual activity. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent, and relying on nonverbal communication alone may not be sufficient to establish consent. Additional guidance about consent can be found in Section VIII.

**Incapacitation:** a state where a person is incapable of giving consent because they are incapable of or unable to recognize what is going on around a person or not able to recognize the extent of the situation the person is in. People who are unconscious, asleep, unaware that sexual activity is occurring, incapacitated as a result of alcohol or drugs (whether consumed voluntarily or involuntarily) or who are physically or mentally incapacitated cannot give consent. Additional guidance about incapacitation can be found in Section VIII.

**Responsible Employees:** University employees who are **required** to immediately report prohibited conduct to the Title IX Coordinator. Unless otherwise designated as a Confidential Resource, all faculty and staff are considered to be Responsible Employees.

**Student:** any person pursuing studies at the University, including: (a) a person not currently enrolled who was enrolled at the time of the alleged violation; or (b) a person who, while not currently enrolled, has been enrolled in the University and may reasonably be expected to seek enrollment at a future date; or (c) an accepted student who has paid a deposit.

**Student Organization:** a group consisting of a number of students who have followed the University requirements for recognition.

**Title IX Coordinator:** is the University employee who monitors the University's compliance with Title IX, including overseeing the Title IX process (investigations, adjudications and sanctioning); ensuring appropriate education and training for students and employees; and ensuring appropriate action to eliminate, prevent and address prohibited conduct. The Title IX Coordinator is Renee Madison ([titleixcoordinator@depauw.edu](mailto:titleixcoordinator@depauw.edu), 765-658-4914)

**Title IX Administrators:** are the University employees who receive and review reports and complaints under the University's Administrative Sexual Misconduct and Interpersonal Violence Policy, conduct investigations, and

determine findings of misconduct. The Title IX Administrators are Juli Smith ([juliannsmith@depauw.edu](mailto:juliannsmith@depauw.edu), 765-658-4155) and Wendy Wippich ([wendywippich@depauw.edu](mailto:wendywippich@depauw.edu), 765-658-4451)

## **IV. Reporting, Confidentiality, and Preservation of Evidence**

DePauw strongly encourages anyone who experiences or witnesses prohibited conduct to talk with someone promptly about what happened so that they can get any support they need and so DePauw can respond appropriately.

### **Options for Reporting or Seeking Assistance:**

A complainant or witness may choose to:

- Seek assistance from a Confidential Resource;
- Report incidents of conduct prohibited under this Policy to the Title IX Coordinator, Title IX Administrators or a Responsible Employee;
- Report incidents of conduct that may violate state law to DePauw Public Safety (the University's police department), or the appropriate law enforcement agency.

An individual may make a report to the University, to law enforcement, to neither, or to both. Campus Title IX processes and law enforcement investigations operate independently of one another, although the University will coordinate information with the DePauw Public Safety Department.

### **Employee Reporting Responsibilities:**

Different University employees have different abilities to maintain information as confidential. Confidential Resources, as defined below, are not required to share the information with the Title IX Coordinator. All other University employees, referred to as Responsible Employees, are required to immediately share all known information, including the identities of the parties, the date, time and location, and any details about the reported incident with the Title IX Coordinator. Responsible Employees include all faculty, all staff (excluding those designated as Confidential Resources), all administrators, including Student Academic Life and Public Safety personnel, and Resident Assistants (RAs).

Responsible Employees may provide support and assistance to a complainant, witness, or accused student, but they cannot promise confidentiality or withhold information about prohibited conduct. Even when information is shared by a Responsible Employee with the Title IX Coordinator, the complainant may still request anonymity, or that no investigation be pursued. The Title IX Coordinator will then determine whether the complainant's request can be honored (see below).

### **Seeking Assistance from a Confidential Resource:**

A complainant or witness may seek assistance from an individual who has the legally-protected ability to maintain the confidentiality of the conversation. These individuals are referred to in this Policy as Confidential Resources. University employees who are Confidential Resources include licensed counselors, medical professionals, and ordained clergy acting in a pastoral care capacity. Confidential Resources will not disclose protected information unless: 1) given permission by the patient/client; 2) there is an imminent threat of harm to self or others; 3) the conduct involves suspected abuse of a minor under 18 year of age; or, 4) as otherwise required or permitted by law or court order. A person's medical and counseling records are privileged and confidential documents. All University students have access to Confidential Resources that they may use for support and guidance regardless of whether they make a report to the University or participate in a University investigation.

### **Special Designated Resources:**

In order to foster increased reporting, DePauw University has designated Sexual Assault Survivors' Advocates (SASAs) as Special Resources who have the ability to receive reports and share information with the Title IX

Coordinator in a manner that preserves the anonymity of the Complainant. SASAs are permitted to share reports with the Title IX Coordinator in a manner that initially excludes personally identifiable information about the Complainant or witness. In the event that the SASA and/or the Title IX Coordinator determine that the reported conduct poses a potential threat to the health or safety of any campus community member, the SASA may be required to share personally identifiable information. Additionally, unlike Confidential Resources, who have statutorily-protected legal confidentiality, records maintained by SASAs may be subject to release by court order, search warrant or subpoena. If a complainant has concerns or uncertainties about reporting an incident, including the confidentiality of discussions, the complainant can call a Sexual Assault Survivors' Advocate (SASA) at 765-658-4650 for assistance.

### **Reporting Prohibited Conduct to the Title IX Coordinator:**

DePauw strongly encourages complainants and witnesses to immediately report incidents of sexual misconduct to the Title IX Coordinator. The University will make reasonable efforts to investigate and address reports of prohibited conduct, regardless of how the information was brought to the University's attention or the extent to which the complainant wishes to participate or be involved. A report can be made in person, by telephone, or online as follows:

Title IX Coordinator: Renee Madison  
Email: [titleixcoordinator@depauw.edu](mailto:titleixcoordinator@depauw.edu)  
Phone: 765-658-4914  
Online: <http://www.depauw.edu/studentacademiclife/title-ix/report-an-incident-of-sexual-misconduct>

**Timeframe for Reporting:** Complainants and other reporting individuals are encouraged to report any violation of this policy as soon as possible in order to maximize the University's ability to respond promptly and effectively. There is no time limit for reporting, however, and reports under this Policy may be made at any time without regard to how much time has elapsed since the incident(s) in question. If the accused student is no longer actively enrolled at the time of the report, the University may not be able to take disciplinary action against the accused student. However, the University will still seek to meet its Title IX obligations by providing support for the complainant and taking steps to end the prohibited conduct, prevent its recurrence, and address its effects. In addition, the University will assist the complainant in identifying and contacting law enforcement and other external enforcement agencies.

**Amnesty:** The University prioritizes the reporting of prohibited conduct and recognizes that students may be reluctant to make a report because of concern about personal conduct consequences. Students making a report (whether a complainant or a witness) will not be charged under the University's Community Standards process for a violation of the University's alcohol or drug policy involving personal consumption at the time of the alleged misconduct.

### **Reporting Potential Criminal Conduct to Law Enforcement:**

A complainant has the right to report, or decline to report, potential criminal conduct to law enforcement, and the University will upon request assist a complainant in contacting law enforcement at any time. Under limited circumstances posing a threat to health or safety of any University community member, the University may independently notify law enforcement.

If a criminal complaint is made, it must proceed via the county, state or federal criminal justice system. DePauw Public Safety Officers are fully sworn law enforcement officials and may take reports and complete criminal investigations. Students interested in filing criminal charges may also seek assistance directly from other law enforcement agencies. DePauw Public Safety will assist the complainant with the involvement of local police. The filing of criminal charges does not preclude pursuing the administrative Sexual Misconduct process.

In instances where a criminal complaint is made against a current student, a concurrent Title IX administrative process will also commence. DePauw Public Safety investigators will share available information with Title IX Administrators to aid in the administrative process.

### **Anonymous Reporting**

An individual can make a report of prohibited conduct to the University without disclosing one's name at <http://www.depauw.edu/studentacademiclife/title-ix/report-an-incident-of-sexual-misconduct>. Depending on the level of information available about the incident or individuals involved, the University's ability to respond to an anonymous report may be limited.

### **Preservation of Evidence:**

It is important to preserve all evidence related to any report of prohibited conduct, including but not limited to letters, notes, emails, text messages, social media and/or voice mails. There are staff members in the Wellness Center who have been trained as Sexual Assault Nurse Examiners and are available to conduct evidence collection exams at any time; students may access this resource by contacting a SASA or Public Safety 24 hours a day. Students may also receive a sexual assault examination at the Putnam County Hospital. Students are encouraged to seek prompt medical attention in cases of sexual misconduct and to preserve all evidence of the incident.

### **Clery Reporting:**

Campus Security Authorities (CSA), which include members of Public Safety or other individuals who have responsibility for campus security, other individuals that students or employees may report crimes to, or individuals who have significant responsibility for student campus activities are required to share non identifiable information for consideration of Timely Warnings and inclusion in crime statistic data.

Any report of alleged sexual misconduct shall be included in crime statistics in accordance with The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act). These statistics will be made without disclosing the names of either the complainant or the accused student. If the University determines that matters of public safety are involved, the University may disclose the name of a student who poses an active threat to the campus in Timely Warning or Emergency Notifications if this information is necessary to address that threat.

## **V. Interim Measures**

The University will take interim steps necessary to protect the rights of complainants and accused students and the safety of the public and University community after receiving a report of prohibited conduct. The Title IX Coordinator, a designee, or the Office of Public Safety may implement the following interim measures: providing access to counseling, issuing no-contact directives to each of the parties, issuing interim suspensions, assisting in requesting a criminal restraining order, changing housing, rearranging class schedules if available, and assisting with local law enforcement. Interim measures may be remedial (measures designed to maintain continued access to educational opportunities) or protective (involving a restrictive action against an accused student). Interim remedial measures are available to the complainant regardless of whether the complainant pursues an investigation. The options for interim measures will be discussed upon receipt of a report and will be outlined in writing.

The availability of remedial and protective measures will be determined by the specific circumstances of each report. The University will consider a number of factors in determining which measures to take, including the needs of the student seeking remedial and/or protective measures; the severity or pervasiveness of the reported conduct; any continuing effects on the complainant; whether the complainant and the accused student share the same residence hall, academic course(s), or job location(s); and whether judicial measures have been taken to protect the

complainant (e.g., Protective Orders). The University will work in good faith to implement the requirements of judicially-issued Protective Orders and similar orders, to the extent that doing so is within its authority.

Any interim measures will not disproportionately impact the complainant. Requests for interim measures may be made by the complainant to the Title IX Coordinator or Title IX Administrators. The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the University's response with the appropriate offices on campus. The Title IX Coordinator has the discretion to impose and/or modify any interim measure based on all available information and is available to meet with a complainant or accused student to address any concerns about the provision of interim measures. The University will maintain the privacy of any remedial and protective measures provided under this policy to the extent practicable and will promptly address any violation of protective measures.

All individuals are encouraged to report to the Title IX Office any concerns about the failure of another to abide by any restrictions imposed through interim measure. In the event of an immediate health or safety concern, individuals should contact 911 immediately. The University will take immediate action to enforce a previously implemented measure, and disciplinary penalties can be imposed for failing to abide by a University-imposed interim measure.

#### Interim University Suspensions

Interim University suspension may be imposed on an accused student or organization:

- a. to ensure the safety and well-being of members of the University community; or
- b. to ensure the student's own physical or emotional safety and well-being; or
- c. if the student or organization poses a threat of disruption of or interference with the normal operations of the University.

During any interim University suspension, the accused student may be denied access to University housing, to the campus (including classes) and to all other University activities or privileges for which the student might otherwise be eligible. Specific details of the interim suspension will be outlined in written communication to the student.

If an organization is placed on interim University suspension, the organization shall be required to cease and desist with all organizational activities. The organization will be denied access to all University activities and privileges for which the organization might be eligible. In certain circumstances, organizational leadership may be restricted from communication with the organizational membership or students may be required to vacate organizational housing units.

Interim suspensions from the University shall be reviewed automatically by the Vice President for Student Academic Life or their designee within seven (7) days of the interim suspension. Upon review, the Vice President may continue the interim suspension for a designated period, may determine conditions for the termination of the suspension, may expel the student or organization if immediate expulsion is warranted, or take any other action in the best interest of the University.

#### No Contact Directive

At times it becomes necessary to restrict a student's or organization's privileges and prohibit contact with specified individuals by issuing a "no contact" directive. This directive is issued when it is believed necessary to protect a person's safety and preserve a peaceful environment for all students to work, study and live on campus. Violation of a "no contact" directive issued in relation to a violation of the Sexual Misconduct and Interpersonal Violence Policy is considered violation of the Sexual Misconduct and Interpersonal Violence Policy and may result in University action that could include interim suspension from the University.

#### Interim Housing Reassignments

Interim housing reassignments may be issued to students to diffuse issues which have arisen in the living unit, to protect the student or other students with whom the student lives or to promote the safety and well-being of the student or other members of the University community. In the event of an interim housing reassignment, the re-

assigned student shall immediately move and shall not return to the location without written permission from the Title IX Coordinator or designee.

## VI. Rights of Students and Student Organizations

DePauw strives to ensure that all students, whether complainants or accused students, are afforded the following rights:

- To be treated respectfully by University staff and officials.
- To have complaints responded to promptly and sensitively, investigated appropriately and addressed competently.
- To have a support person or advisor of one's own choosing present during the review of the case file.
- To be referred to campus and local mental health and counseling services.
- To obtain a University no-contact directive against another student, and to have assistance in requesting a criminal restraining order from the State if so desired.
- To receive assistance from University officials and staff with any necessary adjustments to living and/or academic situations if such changes are reasonable and requested.
- To be free from any form of retaliation.
- To timely notice of meetings at which their presence will be requested or required.
- To be promptly notified, in writing, of decisions related to the investigation and determination of responsibility to the extent permitted by the law, regardless of whether or not one participates in the process.
- To have irrelevant prior sexual history be made inadmissible during any process to determine responsibility for prohibited conduct.
- To timely and equal access to information that will be used in the adjudication.
- To appeal the outcome.

Complainants also have the following rights:

- To not be discouraged from reporting by University staff or officials.
- To report to campus, local or state police, and to be supported by University officials in so doing.
- To submit a written statement indicating the impact the alleged violation has had on her/him and hopes he/she may have for sanctions assigned to the accused student. This statement will be considered by the Dean of Students when determining sanctions, if the Title IX Administrator makes a finding of responsibility.

Accused Students and Student Organizations also have the following rights:

- To invoke the right to refuse to answer some or all questions (with the qualification that the University reserves the right to go forward with disciplinary proceedings based on available information, if the accused invokes this right).
- To submit a written mitigation statement to be considered by the Dean of Students when determining sanctions, if the Title IX Administrator makes a finding of responsibility.

## VII. Prohibited Conduct

The University prohibits the following conduct:

1. **Non-Consensual Sexual Contact:** Physical contact of a sexual nature by one person against the will of or without the consent of another.

2. **Rape:** Knowing or intentional sexual intercourse or other sexual conduct (as defined below) with another person against the will of or without the consent of that person. Other sexual conduct means:
  - a. acts involving a sex organ of one person and the mouth or anus of another person; or
  - b. the penetration of the sex organ or anus of a person by an object.
3. **Relationship Violence:** Any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Relationship Violence may include any form of prohibited conduct under this policy, including rape, sexual battery, stalking, and physical abuse (is defined below).

Physical abuse is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical abuse will be addressed under this policy if it involves sexual or gender-based harassment, intimate partner violence, or is part of a course of conduct under the stalking definition.

- a. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
  - b. **Domestic Violence:** A felony or misdemeanor crime of violence committed –
    - (i) By a current or former spouse or intimate partner of the victim;
    - (ii) By a person with whom the victim shares a child in common;
    - (iii) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
    - (iv) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
    - (v) By another person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
4. **Retaliation:** taking adverse action against someone involved in the protected activities of participating in the University's Sexual Misconduct Process such as, anyone who makes a report, serves as a witness, assists the accused, the accused, or anyone who pursues criminal action is a violation of the Sexual Misconduct and Interpersonal Violence Policy. Retaliation may include intimidation, threats, coercion, harassment, or adverse employment or educational actions that would discourage a reasonable person from engaging in activity protected under this Policy. A good faith pursuit by either party of civil, criminal or other legal action does not constitute retaliation.
  5. **Sexual Battery:** Intentional touching of another person for the purpose of arousing or satisfying one's own sexual desires or the sexual desires of another person without the consent of or against the will of the person being touched.
  6. **Sexual Exploitation:** Nonconsensual use of sexual contact by one person with another for their own advantage or benefit, or to benefit or advantage anyone other than the person being exploited, and the behavior does not otherwise constitute rape, battery or, or other policy violations. Examples of sexual exploitation include prostituting another student, non-consensual video or audio taping of sexual activity, sharing consensual video or audio taping of sexual activity without all parties consent (such as one person allowing others to secretly watch consensual sex), engaging in voyeurism, and knowingly transmitting an STD or HIV.
  7. **Sexual or Gender-Based Harassment:** Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when one of the conditions outlined in a., b., and c., below, are present. Gender-based harassment includes



harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in a., b., and c., below, are present:

- a. Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any University program, activity, or benefit;
- b. Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions; or
- c. Such conduct creates a hostile environment. A hostile environment exists when the conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits or deprives an individual from participating in or benefiting from the University's educational, employment, and/or campus-residential experience when viewed through both a subjective and objective standard.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

8. **Stalking:** A pattern of repeated and unwanted attention, harassment, contact or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for the person's safety or the safety of others, or suffer substantial emotional distress. Stalking can include:
  - a. Repeated, unwanted, intrusive and frightening communications by phone, mail and/or email.
  - b. Repeatedly leaving or sending unwanted items, presents or flowers.
  - c. Following or lying in wait at places such as home, school, work or recreation place.
  - d. Making direct or indirect threats to harm the complainant, the complainant's family, friends or pets.
  - e. Damaging or threatening to damage the complainant's property.
  - f. Harassing the complainant through the internet.
  - g. Posting information or spreading rumors about the complainant on the internet, in a public place or by word of mouth.
  - h. Obtaining personal information about the complainant by accessing public records, using internet search services, hiring private investigators, going through the complainant's garbage, following the complainant, contacting the complainant's friends, family work or neighbors, etc.
9. **Violation of a No Contact Directive:** Engaging in conduct or communication with an individual, whether intentionally or unintentionally, directly or indirectly, after having been directed by the University to have No Contact with the stated individual.

## VIII. Statement on Consent and Incapacitation

Consent is clear, knowing and voluntary agreement to participate in sexual activity. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent, and relying on nonverbal communication alone may not be sufficient to establish consent.

Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent do not imply consent to future sexual acts. Even in the context of a

relationship, there must be mutual consent to engage in sexual activity each time it occurs. Consent to engage in sexual activity with one person is not consent to engage in sexual activity with any other person.

When it is unclear whether someone consents to activity, it is the responsibility of the person who initiates the activity to ensure that their partner clearly communicates consent. To continue to engage in sexual activity without consent from their partner is a violation of this Policy.

Consent can be withdrawn by either party at any point. Once consent is withdrawn, the sexual activity must cease immediately.

Consent must be mutually understandable. That is, a reasonable person would have to consider the words or actions of the parties to indicate that there was an agreement to engage in the given activity with each other at the same time.

Consent cannot be obtained through force, coercion or taking advantage of another person's incapacitation. Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent. Note: There is no requirement that a party actively resist the sexual advance or request, but resistance is a clear demonstration of non-consent. Sexual activity that is forced is by definition non-consensual, but lack of physical force or coercion does not indicate consent.

Coercion is unreasonable pressure for sexual activity that is sufficient to overcome an individual's freedom of will whether to voluntarily consent to participate in the sexual activity. Coercive conduct includes intimidation and express or implied threats of immediate or future physical, emotional, reputational, financial or other harm to the complainant or other that would reasonably place an individual in fear, that that is employed to compel someone to engage in sexual activity.

Consent cannot be given by minors, by mentally disabled persons, or by otherwise physically or mentally incapacitated persons. People who are unconscious, asleep, unaware the sexual activity is occurring, incapacitated as a result of alcohol or drugs (whether consumed voluntarily or involuntarily) or who are physically or mentally incapacitated cannot give consent.

Incapacitation is an important and specific concept. A person who is incapacitated is incapable of recognizing what is going on around them. An incapacitated person is not able to recognize the sexual nature or extent of the situation they are in. To engage in sexual activity with a person one knows or should know is incapacitated is a violation of this Policy.

Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

When alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs; the level of impairment must be significant enough to render the person unable to give consent. The impact of alcohol and other drugs varies from person to person, and a person's level of intoxication may vary based upon the nature and quality of the substance imbibed, the person's weight, tolerance, ingestion of food and other circumstances. A person's level of impairment may also change rapidly.

In evaluating consent in cases of potential incapacitation, the University asks two questions: (1) Did the person initiating sexual activity know that the other party was incapacitated? and, if not, (2) Should a sober, reasonable person, in the same situation, have known that the other party was incapacitated? If the answer to either of these questions is "yes," consent was absent and the conduct is likely a violation of this Policy.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs often include slurred or incomprehensible speech, unsteady manner of walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is Incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” “Do you know whom you are with?”

One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using drugs. The use of alcohol or other drugs may impair either party’s ability to determine whether consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity. An accused student’s intoxication will not excuse the accused student from the obligation to obtain consent as described in this Policy.

Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

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In evaluating consent in cases of potential incapacitation, the University asks two questions: (1) Did the person initiating sexual activity know that the other party was incapacitated? and, if not, (2) Should a sober, reasonable person, in the same situation, have known that the other party was incapacitated? If the answer to either of these questions is “yes,” consent was absent and the conduct is likely a violation of this Policy.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs often include slurred or incomprehensible speech, unsteady manner of walking, combativeness, emotional volatility, vomiting, or incontinence. A person who is Incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” “Do you know whom you are with?”

One should be cautious before engaging in sexual activity when either party has been drinking alcohol or using drugs. The use of alcohol or other drugs may impair either party’s ability to determine whether consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity. An accused student’s intoxication will not excuse the accused student from the obligation to obtain consent as described in this Policy.

## **IX. Title IX Process Overview**

The Title IX Process is an administrative process that is informed by Title IX and the relevant provisions of VAWA. The Title IX Coordinator provides oversight of a prompt, fair and equitable process. While the parties involved have certain procedural rights, the procedure described is not intended to constitute a legal proceeding.

The Title IX Administrators shall use the process described in the subsequent section to determine facts and responsibility for the reported conduct. The Title IX Administrators, as designees of the Title IX Coordinator, investigate and resolve reports of prohibited conduct, and any other related violations.

Upon receiving a report of prohibited conduct, a Title IX Administrator will meet with and interview the complainant to gather key facts outlining the report. During this meeting, the Title IX Administrator will address any immediate physical safety and emotional support needs, including potential interim measures and no contact directives.

The University utilizes a single-process model, which means that the Title IX Administrators are responsible for 1) evaluating the initial complaint to determine whether the conduct could constitute a violation of the prohibited conduct; 2) if the reported conduct, if true, would constitute a policy violation, conducting a fair and thorough investigation; 3) evaluating the facts gathered from the investigation; and 4) issuing findings of responsibility for the reported misconduct.

**Requests for Anonymity:** Even when choosing to make a report, a complainant may request that their name or other personally-identifiable information not be shared with an accused student, that no investigation be pursued, or that no disciplinary action be taken. In these instances, before taking any further investigative steps, the Title IX Coordinator will discuss the complainant's concerns and seek to address and remedy barriers to reporting or participation. The University will balance any request for anonymity with its obligation to provide a safe and nondiscriminatory environment for all members of the DePauw community. The Title IX Coordinator will evaluate the risk to public or individual safety, will provide interim measures and timely warnings to address those issues, and may choose to proceed with the University process with or without the participation of the complainant.

The Title IX Coordinator will balance the complainant's request against the following factors in reaching a determination whether the request can be honored:

- The totality of the known circumstances;
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- The respective ages and roles of the complainant and accused student;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other prohibited conduct or other misconduct by the accused student;
- Whether the report reveals a pattern of misconduct related to prohibited conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- The complainant's interest in the University's not pursuing an investigation or disciplinary action and the impact of such actions on the complainant;
- Whether the University possesses other means to obtain relevant evidence;
- Fairness considerations for both the complainant and the accused student;
- The University's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

The Title IX Coordinator will consider what steps may be possible or appropriate when the accused student is unknown or the complainant requests anonymity, and what other measures or remedies might be considered to address any effects of the reported behavior on the campus community. The Title IX Coordinator will make a determination regarding the appropriate manner of resolution under the Policy. The University will seek resolution consistent with the complainant's request, if it is possible to do so, based upon the facts and circumstances, while also protecting the health and safety of the complainant and the University community.

Where the Title IX Coordinator determines that a complainant's request(s) can be honored, the University may nevertheless take other appropriate steps to eliminate the reported conduct, prevent its recurrence, and remedy its effects on the complainant and the University community. Those steps may include offering appropriate remedial measures to the complainant, providing targeted training and prevention programs, and/or providing or imposing other remedies. The Title IX Coordinator may also request that a report be re-opened and pursued under this Policy if any new or additional information becomes available, and/or if the complainant decides that they would like an investigation to be pursued.

In those instances when the Title IX Coordinator or the Deputy Title IX Coordinator determines that the University must proceed with an investigation despite the complainant's request that it not occur, the Title IX Coordinator or the Deputy Title IX Coordinator will notify the complainant that the University intends to initiate an investigation, but that the complainant is not required to participate in the investigation or in any of the actions taken by the University.

The University's ability to fully investigate and respond to a report may be limited if the complainant requests anonymity or declines to participate in an investigation. The University will, however, pursue other steps to limit the effects of the potential prohibited conduct and prevent its recurrence. In all cases, the final decision on whether, how, and to what extent the University will conduct an investigation, and whether other measures will be taken in connection with a report of prohibited conduct, rests solely with the Title IX Coordinator.

**Standard of Proof:** The standard for determining responsibility is a preponderance of evidence (more likely than not that the reported conduct happened). If an accused student or student organization is found responsible for a violation of the Sexual Misconduct and Interpersonal Violence Policy, the Dean of Students will issue sanctions.

**Timeframes:** The University will seek to complete the investigation and resolution process in approximately 60 calendar days following the notice of the investigation. In some instances, that may be the same date as the date of the report; in other instances, based on information gathered at the time of the report, that may be at a later date. This Policy designates reasonably prompt time frames for the major stages of the Title IX administrative process, but the University may extend any time frame in this Policy for good cause, including extension beyond 60 calendar days. An extension may be required for good cause to ensure the integrity and thoroughness of the investigation; to comply with a request by law enforcement; in response to accommodate the unavailability of the parties or witnesses; accommodate delays by the parties; or for other legitimate reasons, such as intervening breaks in the University calendar, University finals periods, the complexity of the investigation, and the severity and extent of the alleged misconduct. While requests for delays by the parties may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a report under this policy. The University will notify the parties in writing of any extension of the timeframes for good cause and the reason for the extension.

Although cooperation with law enforcement may require the University to temporarily suspend the fact-finding portion of a Title IX investigation, the University will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The University will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide appropriate interim remedial measures for the complainant.

## **X. Title IX Investigation and Resolution Process**

The Title IX Administrators investigate and resolve issues related to reports of prohibited conduct, and any other related violations. While the parties involved will have certain procedural rights, the procedure described is an administrative process and not intended to constitute a legal proceeding. The Title IX Administrators shall use the process described below to determine facts and responsibility for the reported conduct.

1. An individual may make a report of prohibited conduct against an enrolled or previously enrolled DePauw student or student organization with the Title IX Coordinator, Title IX Administrator, or the Office of Student Academic Life.
2. A Title IX Administrator will meet with the complainant to make an initial assessment of the reported information and respond to any immediate health or safety concerns raised by the report. As part of the initial assessment, the Title IX Administrator will assess the complainant's safety and wellbeing, offer the University's immediate support and assistance, and assess the nature and circumstances of the report. The Title IX Coordinator will also ensure that the complainant receives a written explanation of all available resources, interim measures and options.
3. During this initial meeting, the Title IX Administrator will ask questions to evaluate and assess whether the information reported could constitute a violation of the Sexual Misconduct and Interpersonal Violence

Policy. If the initial information indicates that, if true, the conduct *could* violate University policy, two Title IX Administrators will be assigned to conduct an investigation.

4. Both the complainant and accused student or student organization will receive a written notice of investigation that includes the identities of the parties, if known, a concise summary of the conduct at issue, and the potential policy violations at issue. Typically, the parties will be notified whether or not the Title IX Administrators open a case to investigate a report of prohibited conduct in writing, within three (3) business days.
5. An appeal of the Title IX Administrators' decision to not open an investigation may be filed with the Deputy Title IX Coordinator, in writing by the complainant within 72 hours of the date of the letter of notification.
6. At the start of the investigation, if a complainant or accused student or organization believes that either of the Title IX Administrators may have a conflict of interest which could result in their inability to provide a fair process to the complainant or accused, the complainant or accused should notify the Title IX Coordinator immediately, in writing, of this concern, including an explanation or reason for the conflict of interest. If the Title IX Coordinator determines an actual conflict exists, the Title IX Coordinator will assign a new Title IX Administrator.
7. The Title IX Administrators shall conduct a fair, impartial and thorough investigation, which may include, but is not limited to, interviews or written statements with the complainant, the accused student or organization, and relevant witnesses, as well as collection of available evidence, including electronic and social media communications, documents, photographs, communications between the parties. The investigation is designed to provide both parties a full and fair opportunity to be heard, to submit relevant information, and to identify witnesses.
8. The Title IX Administrators, not the parties, is responsible for gathering relevant evidence to the extent reasonably possible. The complainant and accused student will be asked to identify witnesses and provide other relevant information, such as documents, communications, photographs, and other evidence. Both persons are encouraged to provide all relevant information as promptly as possible to facilitate prompt resolution. In the event that a party declines to voluntarily provide material information, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted.
9. The Title IX Administrators may visit relevant sites or locations and record observations through written, photographic, or other means. In some cases, the Title IX Administrators may consult medical, forensic, technological, or other experts when expertise on a topic is needed in order to achieve a fuller understanding of the issues under investigation. The University will not consider polygraph results.
10. In general, a person's medical and counseling records are confidential and not accessible to the Title IX Administrators unless the person voluntarily chooses to share those records. In those instances, the relevant information from the records must be shared with the other party.
11. The Title IX Administrators will review all information identified or provided by the parties and will determine the appropriateness, relevance, and probative value of the information developed or received during the investigation. In general, the Title IX Administrators will not consider statements of personal opinion or statements as to any party's general reputation for any character trait. All information considered relevant by the Title IX Administrators will be provided to the parties for their review and comment.
12. Prior or subsequent conduct of the accused student may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of prohibited conduct by the accused student, either before or after the incident in question, regardless of whether there has been a prior finding of a policy violation, may be deemed relevant to the determination of responsibility for the prohibited conduct under investigation. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of similar prohibited conduct. The Title IX administrators will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.
13. The sexual history of the complainant or accused student will never be used to prove character or reputation. Evidence related to the prior sexual history of the parties is generally not used in determining whether a violation of this policy has occurred and will only be considered under limited circumstances. For example, if consent is at issue, the sexual history between the parties may be relevant to determine the nature and manner of communications between the parties, which may inform the determination whether consent was sought and reasonably appeared to have been given during the incident in question. As set forth in the consent definition, even in the context of a relationship, consent to one sexual act does not

constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion. In addition, prior sexual history may be relevant to explain injury, to provide proof of a pattern, or to address another specific issue raised in the investigation. The Title IX Administrators will determine the relevance of this information and both parties will be informed if evidence of prior or subsequent conduct is deemed relevant.

14. The University expects all members of the University community to cooperate fully with the investigation and disciplinary procedures. It is understood that there may be circumstances in which a complainant or accused student wish to limit their participation, and the University will respect the choice of the complainant or accused student as to how to engage in University process. The University may, however, move forward with the investigation and any sanction without the participation of a party or parties.
15. If there is more than one complaint of prohibited conduct, which could result in multiple allegations against the accused student or organization, a cross-complaint of prohibited conduct against the complainant, or a case involves two accused students, all matters known to the University may be incorporated into one case process.
16. At the conclusion of the fact-gathering portion of the investigation, the Title IX Administrators will meet with the complainant and accused to provide each an opportunity to review the case file, including all evidence relevant to the conduct being investigated, and provide any final clarifications about the alleged prohibited conduct. Typically, the case file will be made available no later than three (3) business days after notice of the conclusion of investigation. Each party will have seven (7) business days to meet with the Title IX Administrators and submit any additional information or clarifications. Title IX Administrators will consider requests, made in writing for requests of additional time to review the investigative case file. The complainant and accused student are not permitted to remove the case file from its secure location, nor make copies or photographs, electronic or otherwise, of the contents of the case file.
17. The complainant and the accused are encouraged to have a support person or advisor assist in the case file review and preparation of any written or verbal response statements, which could include an impact or mitigation statement. The advisor may be an attorney. The University can recommend a trained advisor from its faculty or administrative staff, if requested by a student. An advisor accompanying a student at any meeting may provide support, guidance or advice to the student during the meeting, but may not otherwise participate in the meeting unless requested to do so by the University.
18. After reviewing the complainant's and accused student's responses, the Title IX Administrators will make a determination whether this Policy has been violated by a preponderance of the evidence. The Title IX Administrators will provide written notification of any findings of responsibility to the complainant, accused student or organization, Dean of Students and the Title IX Coordinator.
19. If an accused student or organization is found responsible, the Dean of Students will issue and provide notice of the sanction(s). (Section XI)
20. If at any point in the Sexual Misconduct Process, a complainant wishes to pursue a criminal complaint, the complainant should notify the Title IX Coordinator, or designee. The Title IX Coordinator will share the relevant information with the appropriate law enforcement agency, as permitted by Family Educational Rights and Privacy Act (FERPA).

## **XI. Sanctions**

If the Title IX Administrators find the accused student or student organization to be responsible for a violation of the Sexual Misconduct and Interpersonal Violence Policy, the Dean of Students shall impose sanctions. Sanctions can range from formal warning up to expulsion. Any sanctioning level may also include completion of assigned educational requirements. Sanctions of suspension or expulsion carry with them a forfeiture of tuition, fees and residence hall room and board. Sanctions including parental notification may also include disclosing previous violations in that notification. Protective measures, including no-contact directives, no trespass orders and changes to residential and/or academic situations, may also be implemented upon a finding of responsibility.

In determining the appropriate sanction, the Dean of Students shall consider the following factors: the nature and violence of the conduct at issue; the impact of the conduct on the complainant; the impact or implications of the conduct on the community or the University; prior misconduct by the accused student, including the accused student's relevant prior discipline history, both at the University or elsewhere (if available), including criminal convictions; whether the accused student has accepted responsibility for the conduct; maintenance of a safe and respectful environment conducive to learning; protection of the University community; and, any other mitigating, aggravating, or compelling circumstances in order to reach a just and appropriate resolution in each case.

Sanctions may be imposed individually or in combination.

### **Sanctions for Individuals**

**Expulsion:** The most severe sanction for violation of the Sexual Misconduct and Interpersonal Violence Policy shall be expulsion, resulting in immediate dismissal and permanent separation from the University. Parents or legal guardian will receive notification of the student's change of status. The Vice President for Student Academic Life may expel a student from the University without a determination from the Title IX Administrators or Dean of Students if he/she determines that the student's conduct is so egregious that the student's presence at DePauw is no longer desired and the Sexual Misconduct hearing process is unnecessary. The student will be notified in writing of the Vice President's decision, and parents or legal guardian will be similarly notified. Student expulsions are automatically reviewed by the President of the University. A student who has been expelled is not permitted to visit the University or attend any functions on campus without written permission from the Vice President for Student Academic Life.

For students expelled from the University, tuition, fees and residence hall room and board are neither refunded nor remitted, in whole or in part.

**Suspension:** The second most severe sanction for violation of the Sexual Misconduct and Interpersonal Violence Policy shall be suspension, resulting in immediate dismissal from the University for at least the remainder of the term in progress and/or a specified period of time thereafter. Parents or legal guardian will receive notification of the student's change of status. Any additional violations or failure to comply with other requirements stipulated during this period of suspension may result in expulsion. During this time the student is not permitted to visit the University or attend any functions on campus without written permission from the Vice President for Student Academic Life.

For students placed on suspension from the University, tuition, fees and residence hall room and board are neither refunded nor remitted, in whole or in part.

**Deferred Suspension:** A violation of the Sexual Misconduct and Interpersonal Violence Policy may result in a minimum of sixteen academic weeks on deferred suspension up to the remaining time enrolled at the University. In addition, probation may include educational or other sanctions. Parents or legal guardian will receive notification of the student's change of status, and the student may lose privileges such as: off-campus study, living in University-owned apartments and houses, participation in rush and new member processes, participation in on campus Winter Term, and the chance to hold major campus leadership positions (e.g., Student Government officer, resident assistant position, hearing board membership, mentor, captain of a varsity team). If found responsible for violating any University policies or failure to comply with other requirements stipulated during this period, suspension may take effect immediately.

**Probation:** A violation of the Sexual Misconduct and Interpersonal Violence Policy may result in a minimum of four weeks on probation up to one full year. In addition, probation may include educational or other sanctions, and the student may lose privileges such as: off-campus study and living in University-owned apartments and houses, participation in rush and new member processes, and participation in on campus Winter Term. If found responsible for violating any University policies or failure to comply with other requirements stipulated during this period, the student may be moved to deferred suspension status.



**Formal Warning:** A violation of the Sexual Misconduct and Interpersonal Violence Policy may result in a written notification that documents the Sexual Misconduct and Interpersonal Violence Policy violation and warns against any potential violations of University policy in the future. Formal warnings may include educational or other sanctions.

### **Sanctions for Organizations**

**Expulsion:** The most severe violation of the University Code of Conduct by an organization may result in dismissal and permanent separation of the organization from the University.

**Suspension:** The second most severe violation of the Sexual Misconduct and Interpersonal Violence Policy by an organization may result in suspension of the organization from the University for a minimum of one full academic year up to four full academic years. Any additional violations or failure to comply with other requirements stipulated during this period may result in expulsion. Fines for organizations on suspension may range from \$2500 to \$5000.

**Probation:** Repetitive or serious violations of the Sexual Misconduct and Interpersonal Violence Policy may result in at least Organizational Probation. Probation is a period of observation and significant restrictions and requirements may be put in place. Prior to the end of the probationary period, the president of the organization is required to schedule a probation assessment meeting with the Dean of Students or designee. The probationary period will not end until the conditions of the probation have been met. Any additional violations or failure to comply with requirements stipulated during this period can result in suspension or an increase in the length, severity or requirements of the probation. The length of the probationary period for organizations may range from four weeks to one full year. Fines for organizations on probation may range from \$1000 to \$2500.

Social restrictions while an organization is on probation may include 1) no group parties or co-sponsored events that allow alcohol to be present; 2) no group parties or co-sponsored events; 3) loss of all group and campus-wide social privileges except philanthropy and intramurals; 4) loss of all group and campus-wide social privileges except philanthropy.

**Review:** Moderate and/or first time violations of the Sexual Misconduct and Interpersonal Violence Policy may result in the organization being placed on Organizational Review. Organizational Review is a period of observation in which the sanctions for the organization will focus on education, guidelines and requirements may be implemented to assist the organization in corrective actions associated with the violation. The length of the review period for organizations will typically range from four weeks to twelve weeks, but may extend to a full semester. Fines for organizations on probation may range from \$250 to \$1000.

**Formal Warning:** A violation of the Sexual Misconduct and Interpersonal Violence Policy may result in a written notification that documents the organization's Sexual Misconduct and Interpersonal Violence Policy violation and warns against any future violations of University policy. Formal warnings may carry educational sanctions and a fine of \$250.

**Other sanctions for students and student organizations may include, but are not limited to:**

**Educational Sessions:** The goal of this alternative is to promote safety and education by creating and presenting solution-focused information to chapters in engaging ways. Actively involving representatives from the chapter in co-designing the educational conversation will allow tailored programming that addresses the specific problems that resulted in policy violations.

## **XII. Appeals**

### **A. Procedure**

An appeal of the determination regarding responsibility made or sanction imposed by the Dean of Students may be filed with the Vice President for Student Academic Life in writing by the complainant or the accused student or student organization within 72 hours of the date of the letter of notification regarding findings of responsibility, unless that time is extended in writing by the Vice President. Appeals may be based only on the following reasons:

1. New evidence not reasonably available at the time of the case review, the absence of which is likely to have affected the outcome
2. Procedural error likely to have affected the outcome
3. Appropriateness of sanction

All materials supporting any appeal must be submitted at the time the appeal is filed. The Vice President will advise the non-appealing party in writing of the receipt of an appeal and will provide a copy of the appeal to the non-appealing party. The non-appealing party will have five (5) days from the date of their receipt of the appeal to respond in writing to the appeal.

## **B. Disposition of Appeals by the Vice President**

The Vice President may:

1. Affirm the action taken.
2. Reverse the determination of responsibility and refer the case back to the Title IX Administrators for another determination of findings of responsibility.
3. Reverse the Title IX Administrators' determination of responsibility and vacate any sanction.
4. Impose different sanctions.

The Vice-President will advise both parties in writing of the decision on appeal. Decisions by the Vice President are final.

## **XIII. Communication of Outcomes**

Both the complainant and the accused student, or president and advisor of the accused student organization will be notified in writing of the outcome of a Title IX investigation and determination of responsibility and of any appeal decisions following such determination. The University is committed to fulfilling its obligations under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. Statistics citing the number of reports of sexual misconduct and disposition of such reports are included in the Annual Security and Fire Safety Report which can be found on the Public Safety Website.

## **XIV. Alternative Resolution**

Alternative Resolution is a voluntary and remedies-based resolution that does not involve taking disciplinary action against an accused student. Where the Title IX Coordinator concludes that Alternative Resolution may be appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maintain the complainant's access to the educational, extracurricular, and employment activities at the University and to eliminate a potential hostile environment. Examples of interim remedial measures are included in Section V of this policy.

Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the accused student, and/or indirect action by the Title IX Coordinator. Depending on the form of Alternative Resolution used, it may be possible for a complainant to maintain anonymity. The University will not compel a complainant to engage in mediation, to directly confront the accused student, or to participate in any particular form of Alternative Resolution. Mediation, even if voluntary, may not be used in cases involving rape,

sexual battery, or non-consensual sexual contact. The decision to pursue Alternative Resolution will be made when the University has sufficient information about the nature and scope of the conduct, which may occur at any time.

Participation in Alternative Resolution is voluntary, and a complainant can request to end Alternative Resolution and pursue an investigation at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for Alternative Resolution, which will typically be complete within sixty (60) calendar days of the initial report.

## **XV. Sexual Misconduct Process Records**

### **A. Access to Records**

1. Documents. The parties shall have the right to inspect and review the documents to be used by the Title IX Administrators in making the determination of responsibility. All requests to inspect and review documents shall be made in writing to the Title IX Administrators. Any review of documents shall be with the supervision of the Title IX Administrators. Participants, including complainants, the accused student or student organization, or their advisors, are not permitted to photocopy, photograph, or reproduce any documents.
2. Record Retention. A student's file related to the Sexual Misconduct and Interpersonal Violence Policy will be maintained for five years from graduation, after which records are archived and cannot be accessed for reporting. An organization's file will be maintained for three years from the date the incident occurred.

### **B. Release of Information and Notification**

1. The Dean of Students or designee is responsible for the release of any information relating to University Sexual Misconduct cases.
2. Parents or guardians may be notified when a student is placed on probation, suspended or expelled under this process. Parents may be notified prior to the outcome of the case in situations where the typical sanction is likely suspension or deferred suspension. Parents are notified of prior formal warning violations if a student has additional formal warnings or is later placed on probation, deferred suspension or suspended. Parents or guardians may be notified about other disciplinary action at the discretion of the Dean of Students or designee.
3. Names of students being investigated for violations of the Sexual Misconduct and Interpersonal Violence Policy will not be released.
4. Notification regarding allegations, sanctions or any other Sexual Misconduct and Interpersonal Violence Policy information may be shared with an organization's advisors, alumni governing board, (inter)national headquarters, governing council, parents of members, or publically at the discretion of the Dean of Students or designee.
5. Employers and representatives of graduate/professional schools will be informed of all Sexual and Interpersonal Violence Misconduct Policy violations resulting in a sanction of probation or higher if information is requested and a release has been signed, according to the record retention policy above.

### **C. Family Educational Rights and Privacy Act**

Access to records and release of information and notification shall be construed and applied in a manner consistent with the Family Educational Rights and Privacy Act, as amended from time to time.

## **XVI. Training and Education**

DePauw offers programming during the academic year to prevent and address sexual misconduct. DePauw emphasizes bystander intervention and educates its students about prevention of sexual misconduct and its Sexual

Misconduct and Interpersonal Violence Policy. All new students are required to attend sexual misconduct prevention programs during New Student Orientation. DePauw Employees are considered Responsible Employees, unless an individual is considered an employee with confidential protections (licensed counselors, medical professionals and ordained clergy acting in a pastoral care capacity). DePauw Employees receive training on their duty to report incidents of sexual misconduct to the Title IX Coordinator.

## **XVII. Resources**

### **Campus Resources:**

Counseling Services*	765-658-4268
Dean of Students Office	765-658-4270
Public Safety	765-658-5555
Sexual Assault Nurse Examiners*	765-658-4555
Sexual Assault Survivors' Advocates (SASA)	765-658-4650
Title IX Coordinator	765-658-4914
Title IX Administrator	765-658-4155
Title IX Education and Prevention	765-658-4270
Women's Center	765-658-4173

\*After hours, sexual assault nurse examiners and Counseling Services can be reached through working with a SASA or calling Public Safety

### **Community Resources:**

Family Support Services	765-653-4820
Greencastle Police	765-653-2925
Putnam County Hospital	765-653-5121
Putnam County Sheriff	765-653-3211
RAINN (National Resource)	1-800-656-HOPE (4673)

## **XVIII. External Reporting**

Concerns about the University's application of Title IX and the Clery Act may be addressed to the University's Title IX Office; the United States Department of Education, Clery Act Compliance Division (at [clery@ed.gov](mailto:clery@ed.gov)); the United States Department of Education, Office for Civil Rights, at ([OCR@ed.gov](mailto:OCR@ed.gov) or (800) 421-3481); and/or the Equal Employment Opportunity Commission (at [info@eeoc.gov](mailto:info@eeoc.gov) or (800) 669-4000).

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