

# Equal Opportunity and Non-Discrimination Policy

Date

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Item

F.3

## I. Policy Statement

The University of Southern Indiana (“University” or “USI”) embraces and celebrates the many differences that exist among the members of a dynamic, intellectual and inclusive community, and strives to maintain an environment that respects differences and provides a sense of belonging and inclusion for everyone.

USI views, evaluates and treats all persons in any University-related activity or circumstance in which they may be involved solely as individuals on the basis of their own personal abilities, qualifications and other relevant characteristics. Any form of unlawful Discrimination and Harassment will not be tolerated. The University is prepared to take prompt action to prevent and correct behavior that violates this Policy and to remedy its effects.

This Policy prohibits all forms of unlawful Discrimination and related Harassment toward any University community member on the basis of race, color, religion, sex, pregnancy or marital status, parental status, national origin or ancestry, age (40 and older), disability, genetic information, sexual orientation, gender identity, gender expression, veteran status or any other category protected by law or identified by the University as a protected class. Compliance with this Policy is a term and condition of a person's employment, membership, or affiliation with the University of Southern Indiana.

This Policy is in addition to the University's Sexual Harassment Policy, which, consistent with Title IX of the Educational Amendments Act of 1972 and its implementing regulations, prohibits discrimination based on sex, including Sexual Harassment, in the University's education programs and activities, including, but not limited to, admission and employment. For information about the University's prohibition of unlawful discrimination based on sex as termed under the Title IX regulations, see the University's [Sexual Harassment Policy](#).

Given the nature of this type of conduct and the serious effects such conduct can have on the target of the conduct and the one accused of the conduct, the University treats alleged violations of this policy seriously and, to the extent possible, confidentially. The University expects all employees to treat alleged violations and those affected by them in a responsible and respectful manner. Please help the University maintain a comfortable educational and work environment free from inappropriate and offensive conduct of any type irrespective of whether the conduct is unlawful.

# III. Definitions

## Definitions of Prohibited Conduct

This Policy applies to all unlawful Discrimination and related Harassment against members of any category protected by law or identified by the University as a protected class. Examples of harassment may include conduct that is verbal, written and/or physical. Each definition below is provided within this context.

**Discrimination** is the process of illegally differentiating between people on the basis of group membership rather than individual merit. *Systemic discrimination* may occur when unequal treatment results from neutral institutional practices that continue the effect of past discrimination. *Individual discrimination* may result when a person is subjected to unequal treatment on the basis of race, religion, color, sex, age (40 and older), national origin or ancestry, genetic information, disability, veteran status, pregnancy or marital status, parental status, sexual orientation, gender identity, or gender expression.

**Harassment** is unwelcomed conduct towards another person or identifiable group of persons based on a protected class status that is so severe, pervasive, or objectively offensive that it has the purpose or effect of:

1. Creating an intimidating or hostile educational environment, work environment or environment for participation in a University program or activity;
2. Unreasonably interfering with a person's educational environment, work environment or environment for participation in a University program or activity; or
3. Unreasonably affecting a person's educational or work opportunities or participation in a University program or activity.

**Sexual Misconduct** is nonconsensual conduct of a sexual nature, based on sex or gender, and that occurs off-campus, at study abroad programs, and/or online when the conduct affect a substantial University interest. Such conduct includes the following prohibited conduct:

- **Hostile Environment Sexual Harassment** means unwelcome verbal, written, or physical conduct based on sex, sexual orientation and/or gender identity, that is severe, persistent, or pervasive and has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions) or that creates an intimidating, hostile or offensive environment.
- **Quid Pro Quo Sexual Harassment** is a form of harassment that consists of unwelcome sexual advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when a person affiliated with the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in the unwelcome sexual conduct.
- **Sexual Assault** is defined as any sexual act directed against another person, without consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of temporary or permanent incapacitation. Violations of this policy shall include one or more of the following:
  - **Rape** is defined as penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant. This definition includes any gender of the Complainant or Respondent.
  - **Fondling** is defined as the touching of the private body parts, including but not limited to breasts, buttocks, or groin of another person, for the purpose of sexual gratification, without the consent of the Complainant.
  - **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law in Indiana.

- **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent which is 16 years of age in the state of Indiana (which means the victim must be under 16); however, 14- and 15-year-olds may consent if the offender is less than four years older than the victim.
- **Dating Violence** encompasses a wide range of behaviors including sexual assault, physical abuse, and other forms of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- **Domestic Violence** encompasses a wide range of behaviors including sexual assault, physical abuse, and other forms of violence committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; by a person who is cohabitating with or has cohabitated with, the Complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the Complainant, or by any other person against an adult or youth Complainant protected from those acts by domestic or family violence laws of Indiana. For the purposes of this policy, incidents involving roommates who are not in a relationship as defined under this section will not be considered "domestic violence."
- **Stalking** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress. A course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. A reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- **Sexual Exploitation** means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited. Examples include but are not limited to non-consensual photography, video-, or audio-recording of sexual images or activity, distributing images of sexual activity without consent, and observing a consensual sexual act without the prior knowledge or consent of all involved parties. In some circumstances, Sexual Exploitation may also meet the definition of hostile environment harassment and may be adjudicated under Title IX adjudication procedures.

## Definition of Consent

**Consent/Consensual** is defined as an affirmative indication by words and/or actions of a voluntary agreement to engage in the particular sexual act or conduct in question. Consent for one sexual act or conduct does not constitute consent to all sexual acts or conduct. Consent can be withdrawn at any time, and once withdrawal of consent has been expressed, sexual activity must cease. Consent cannot be obtained through the use of force, threat, intimidation, or coercion. Silence or absence of resistance on the part of an individual does not constitute their consent. Consent cannot be given by someone who is incapacitated due to consuming drugs or alcohol or for any other reason (including but not limited to being unconscious, asleep, or otherwise unaware that sexual activity is occurring).

The voluntary nature of Consent will be subject to heightened scrutiny in circumstances where someone who has power or authority over another person engages in a sexual relationship with that person.

**Incapacitated/Incapacitation** is a state where someone cannot make rational or reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). While incapacitation may result from the use of alcohol and/or drugs, incapacitation is a state beyond drunkenness or intoxication. Incapacitation may also exist because of a physical, mental, or developmental disability. The question of incapacitation will be examined objectively from the perspective of the Respondent i.e. whether a reasonable, sober person in place of the Respondent should have known the condition of the Complainant based on the apparent indications of incapacitation, which may include, but are not limited to, acting confused or incoherent, difficulty walking or speaking, and/or vomiting.

## Other Policy Definitions

**Academic Adjustments** is an academic modification or adjustment that minimizes or eliminates the impact of a disability, allowing the individual to gain equal access and have an equal opportunity to participate in the University's courses, programs, services, activities and facilities.

**ADA Coordinator** is The Americans with Disabilities Act Coordinator.

**Reasonable Accommodations** are a wide range of modifications that allow otherwise qualified applicants or employees with disabilities to perform the essential functions of a position. Such modifications may be deemed reasonable if they do not result in an undue burden on the University or its operations.

**Responsible Employee** are all employees who the University has classified Responsible Employees. These persons are not confidential and must immediately report to the Institutional Equity Office all relevant details about an incident of sexual harassment that involves any community member.

**Retaliation** is any overt or covert act of reprisal, interference, restraint, penalty, Discrimination, intimidation, or Harassment against any person or group for reporting or complaining of Discrimination and/or Harassment, assisting or participating in the investigation of a complaint of Discrimination and/or Harassment, or enforcing University policies with respect to Discrimination and/or Harassment.

## III. Affirmative Action

As a federal contractor, University of Southern Indiana is committed to making good faith effort to eliminate employment barriers to women, minorities, veterans and individuals with disabilities. Therefore, USI will take affirmative action to recruit and advance qualified minorities, women, persons with disabilities, and covered veterans with a set of results-oriented affirmative action programs and procedures. These programs are updated annually and are available for inspection by those affiliated with the University.

The University of Southern Indiana promotes these policies and programs to ensure that all persons have equal access to its employment opportunities and educational programs, services and activities. The principal objective of this policy is to provide fair and consistent treatment for all current and prospective students and employees of the University. The University also is committed to policies and programs that increase the diversity of the student body.

### Affirmative Action Officer

The Affirmative Action Officer oversees the University's compliance with the applicable federal and state laws described above. The Affirmative Action Officer may designate other University personnel or external

consultants to assist and support compliance efforts or to act as a designee in cases of conflict of interest or in other situations where a designee is deemed necessary to maintain the University's compliance under this Policy.

**Affirmative Action Officer:**

Chelsea Givens  
Title IX Coordinator and Affirmative Action Officer  
Wright Administration Building, Forum Wing, Room 171A  
8600 University Boulevard  
Evansville, Indiana 47712  
812-464-1703  
[cckeaton@usi.edu](mailto:cckeaton@usi.edu)

## IV. Application of this Policy to Employment and Education

All aspects of the employment relationship, including recruitment, selection, hiring, training, professional development, tenure, promotion, compensation and separation, are administered in accordance with this Policy. Notwithstanding the prohibition against Discrimination, the University may, without violating this prohibition, provide different benefit packages to employees who have a spouse and/or dependent children than are provided to other employees.

## V. Reason for this Policy

The University of Southern Indiana is committed to the principles of affirmative action and equal opportunity in education and employment. We take seriously our responsibility to provide leadership in ensuring that equal employment opportunity is the norm as opposed to a goal.

This policy helps to further the University's commitment to its compliance with state and federal laws and regulations, including but not limited to:

- Age Discrimination Act of 1975
- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990, as amended
- Executive Order 11246, as amended
- Equal Pay Act of 1963
- Genetic Information Nondiscrimination Act of 2008
- Indiana Civil Rights Act of 1971
- Pregnancy Discrimination Act
- Sections 503 and 504 of the Rehabilitation Act of 1973
- Title VI of the Civil Rights Act of 1964, as amended
- Title VII of the Civil Rights Act of 1964, as amended
- Title IX of the Education Amendments of 1972.
- Uniformed Services Employment and Reemployment Rights Act of 1994
- VEVRAA, Section 4212.

## VI. Individuals and Entities Affected by this Policy

All University of Southern Indiana community members are subject to this policy without exclusion.

### No Waiver

Nothing contained in this policy should be interpreted as a waiver by the University of Southern Indiana of its sovereign immunity, immunity pursuant to the 11th Amendment of the U.S. Constitution or any other immunity or defense available under state or federal laws.

## VII. Addressing Discrimination and Harassment

This policy seeks to encourage faculty, staff and students to report and address incidents of Discrimination and related Harassment. Complaints will be addressed promptly and consistently, using procedures that are fair and effective from the point of view of the person and the University, and be resolved at the lowest organizational level possible. The [Procedures for Resolving Complaints of Discrimination and Harassment](#), as issued and updated from time to time by the Institutional Equity Office, describe the necessary steps for filing complaints of Discrimination and Harassment.

### Violations of this Policy

Any individual or group of individuals found to have violated this policy will be subject to disciplinary or remedial action, up to and including termination of employment or expulsion from the University. Faculty and staff who are determined to have violated this policy also may be held personally liable for any damages, settlement costs or expenses, including attorney fees incurred by the University.

### False Allegations, Statements, or Evidence

This policy may not be used to bring knowingly false or malicious charges against any faculty, staff, students or Recognized Student Organizations, including fraternities or sororities. Disciplinary action will be taken against any person or group found to have brought a charge of Discrimination or Harassment in bad faith or any person who, in bad faith, is found to have encouraged another person or group to bring such a charge. In addition, individuals who knowingly provide false statements or evidence, or who deliberately mislead a University official, or designee, conducting an investigation under this policy may be subject to discipline under this policy or another University policy or process.

### Retaliation Prohibited

The University prohibits Retaliation against any individual for the purpose of interfering with any right or privilege secured by this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a investigation or proceeding.

## VIII. Accommodations

The University takes appropriate steps to provide reasonable accommodation to qualified individuals with disabilities so long as doing so does not cause an undue hardship to the University. The University also takes appropriate steps to provide reasonable accommodations upon request to employees whose religious beliefs or restrictions create a conflict with the University's policies, practices, or procedures, so long as doing so does not cause an undue hardship. Faculty and staff in need of accommodations should follow the [Faculty, Staff and Student Worker Accommodation Request Process](#). Students in need of accommodation should contact the [Disability Resource Center](#).

## IX. Reporting and Addressing Discrimination and Harassment

Any member of the USI community who believes that they have experienced or witnessed incidents of Discrimination and/or Harassment in violation of this Policy is encouraged to report the incident(s) as soon as possible.

### Reporting to Law Enforcement

The University encourages any student or employee who have been the target of a criminal offense described under the Jeanne Clery Act or Violence Against Women Act (VAWA) are encouraged to report such incidents to Public Safety and/or law enforcement. Those in Public Safety or the Title IX Coordinator can assist the Complainant in contacting appropriate law enforcement officials and in working with these officials to pursue criminal charges against the Respondent. Complainants also have the option to decline to notify law enforcement authorities.

Please note that reporting options are not mutually exclusive; both internal (University) and external (Law Enforcement) reporting options may be pursued at the same time. The local law enforcement office with jurisdiction over the University's geographic location is the Vanderburgh County Sheriff's Office. Allegations of criminal misconduct occurring within the Evansville city limits can be reported to the Evansville Police Department. Additionally, the Indiana State Police (ISP) has state-wide jurisdiction.

#### **USI Public Safety** (Available for Emergency or After-Hours Reporting)

From your cell phone or outside line: 812-492-7777

From campus phones: Ext 7777

#### **Vanderburgh County Sheriff's Office Operation Center**

5607 Highway 41 North

Evansville, IN 47711

Non-emergency telephone: 812-421-6201

Emergency telephone: 911

#### **Evansville Police Department**

15 Northwest Martin Luther King Jr. Boulevard Evansville, IN 47708

Non-emergency telephone: 812- 436-7896

Emergency telephone: 911

Indiana State Police (ISP) District 35 Police Post  
19411 Highway 41 North  
Evansville, IN 47725  
Telephone: 812-867-2079 or 800-852-3970

While not required, the University strongly encourages anyone who becomes aware of behavior that may constitute a crime to report the incident to local law enforcement. However, [Campus Security Authorities \(CSAs\)](#) must report certain crimes reported to them through the appropriate reporting structure. The University can provide support, resources, and assistance to those who do so. Regarding the involvement of law enforcement in matters involving Sexual Harassment, the Complainant has several options, including to: (1) notify law enforcement authorities; (2) be assisted by campus authorities in notifying law enforcement authorities if the Complainant chooses; or (3) decline to notify law enforcement authorities. The University will comply with the Complainant's request for assistance in notifying law enforcement in these matters to the extent legally permitted. The Complainant's choice to report to law enforcement will not impact the implementation of supportive measures if applicable.

Protective orders and peace orders may be sought through the court system. A Complainant interested in a mutual no-contact order at USI may contact the Office of Institutional Equity or USI Public Safety.

Reports of violations under this Policy may also constitute violations of state and local law. University officials are required to document certain reports of sexual harassment for Clery Act reporting purposes. There will be no personally identifiable information about the Complainant shared in that report. If the University is required to notify the community of the incident, including recording the assault in the Daily Crime Log or through the issuance of a Timely Warning Notice, identifying information will not be included to the extent permissible by law.

In certain instances, the University may need to report potential criminal misconduct to law enforcement authorities even when the Complainant has decided not to do so. Such circumstances include those in which there is clear and imminent danger or risk to the Complainant and/or the University community, in which a weapon was involved with the incident, child abuse, or in which the allegations involve sexual harassment of a Complainant under the age of consent. The necessity to report an incident to law enforcement will be shared with the Complainant.

The University's Resolution Processes and the legal system work independently from one another, and the University will proceed with its process as applicable, regardless of action or inaction taken by outside authorities. If a law enforcement investigation is initiated, the University may pause its procedures briefly at the request of law enforcement to facilitate their initial evidence gathering. Decisions made or sanctions imposed through the Formal Complaint Resolution Process are not subject to change if criminal or civil charges arising from the same misconduct are dismissed, reduced, or rejected in favor of or against the Respondent.

## Mandatory Reporting

The University of Southern Indiana is committed to taking appropriate measures to ensure the safety and well-being of children/minors [under Indiana law, a child is anyone who is **not yet 18** years of age], participating in University-related activities and to report instances of suspected or known child abuse or neglect as required by law.

If you suspect child abuse or neglect of a minor, please refer to the [Child Protection Policy](#) and contact the following offices:

Title/Office	Telephone	Email/Webpage
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Vanderburgh County Sheriff Department 812-421-6200 <https://vanderburghsheriff.org/>  
Indiana Department of Child Services 800-800-5556 <https://www.in.gov/dcs/>

## X. Contacts

### *Policy Clarification, Discrimination Complaints and Written Affirmative Action Programs*

Title/Office	Telephone	Email/Webpage
Institutional Equity	812-464-1703	<a href="https://www.usi.edu/institutional-equity/">https://www.usi.edu/institutional-equity/</a>
Government and Legal Affairs	812-464-1849	<a href="https://www.usi.edu/government-and-legal-affairs/">https://www.usi.edu/government-and-legal-affairs/</a>

### *Academic Adjustments and Reasonable Accommodations*

Title/Office	Telephone	Email/Webpage
Disability Resources	812-464-1961	<a href="https://www.usi.edu/disabilities/">https://www.usi.edu/disabilities/</a>
ADA Coordinator	812-465-1701	<a href="https://www.usi.edu/hr/ada/">https://www.usi.edu/hr/ada/</a>
Institutional Equity Office	812-464-1703	<a href="https://www.usi.edu/institutional-equity/">https://www.usi.edu/institutional-equity/</a>

## XI. Related Documents, Forms and Tools

- [Sexual Harassment Policy \(F.1\)](#)
- [Amorous Relationship Policy \(F.2\)](#)

[Institutional Equity Office](#)

[Report Flowchart](#)

[Incident Report Flowchart](#)

[Know Your Rights - Sexual Harassment, Sexual Assault, Dating Violence and Stalking](#)

[Procedures for Resolving Complaints of Discrimination and Harassment](#)

**Regulations Governing Student Conduct:**

Dean of Students Office: <https://www.usi.edu/deanofstudents/student-conduct/>

**Websites for governing bodies with oversight for applicable laws and regulations:**

- [Indiana Civil Rights Commission: www.in.gov/icrc](http://www.in.gov/icrc)
- [U.S. Department of Education Office for Civil Rights: www2.ed.gov/about/offices/list/ocr/index.html](http://www2.ed.gov/about/offices/list/ocr/index.html)
- [U.S. Department of Justice, Americans with Disabilities Act: www.ada.gov/](http://www.ada.gov/)
- [U.S. Department of Labor Office of Federal Contractor Compliance Programs: www.dol.gov/agencies/ofccp](http://www.dol.gov/agencies/ofccp)
- [U.S. Equal Employment Opportunity Commission: www.eeoc.gov](http://www.eeoc.gov)