

Sexual Misconduct Policy

Effective June 8, 2015 / Updated July 1, 2020

Policy Statement

Union Institute & University recognizes the human dignity of each individual of the university community and believes that each has a responsibility to promote respect and dignity for others. UI&U is committed to providing a learning and working environment in which students, faculty, and staff can thrive, and a culture that is welcoming, affirming, and free of fear. To this end, UI&U strives to foster an academic and work environment that is free from sexual/gender discrimination, sexual/gender harassment, and sexual assault. This policy outlines a process to stop, remedy, and prevent all forms of sexual misconduct including acts of sexual violence, sexual/gender harassment, domestic violence, dating violence, stalking, and bullying, including cyberstalking and cyberbullying.

This policy applies to all university students and employees, members of the university's governing board, third parties, and others who do business with the university, including visitors or guests of the university. It applies to all conduct on university premises, and at university-sponsored events or programs, and to other off-campus behavior, not part of a university sponsored activity, when the effects of the conduct substantially intrude on the university and create a hostile academic or employment environment. In the case of allegations of sexual misconduct, this policy supersedes any conflicting procedures and policies set forth in other university documents.

This policy outlines the rights and options of Complainant and Respondent in the reporting of sexual misconduct situations and ensures a fair and equitable process for all parties. This policy is not a substitution for law; some allegations might rise to actions that are criminal in nature. UI&U supports and encourages individuals to report criminal activity to appropriate law enforcement officials

Definitions

While the following definitions are not inclusive of all possible violations of this policy, they are meant to create a working glossary to illustrate potential situations covered by this policy and define sexual misconduct. The university prohibits all forms of sexual/gender discrimination, sexual/gender harassment, and sexual misconduct. Violations will not be tolerated and will result in appropriate discipline including possible suspension or expulsion from the university (students), suspension or termination from employment (employees), and sanctions including possible removal as to members of the university governing boards.

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

Confidential Reporter: There are no confidential reporters at UI&U. All employees (including faculty) are mandatory reporters. Individuals outside the university who can be confidential reporters include licensed counselors, medical professionals, and ordained clergy.

Consensual Relationships: The university discourages consensual sexual or amorous relationships where there is an institutional power difference between the parties involved, for example between a supervisor and a subordinate employee, or between a student and anyone having a grading, advisory, or supervisory authority over that student. Relationships that occur in the context of educational evaluation or employment supervision present serious concerns about the validity of consent and existence of welcomeness. The disparity of power in these

relationships makes them susceptible to exploitation. The university requires relationships of this type be disclosed using the disclosure form, which is then submitted to Human Resources. Such a disclosure may require changes in the evaluative and grading relationship (i.e., an independent third party assumes the duties of evaluating or grading and in the event of an employee relationship, a change in reporting relationship).

Cyberbullying/Cyberharassment: Cyberbullying or Cyberharassment is the willful and repeated use of cell phones, computers, and other electronic communication devices to harass or threaten others on account of sex or gender, gender identity, or sexual orientation.

Cyberstalking: Cyberstalking is the use of the Internet, email, or other electronic communications to stalk, and generally refers to a pattern of threatening or malicious behaviors.

Dating Violence: Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence/Intimate Partner Violence: Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other 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.

Gender Harassment: Gender harassment means unwelcome acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender or gender stereotyping, even if those acts do not involve conduct of a sexual nature. For example, harassment of individuals based upon sexual orientation or of transsexual individuals is a form of gender harassment based upon gender stereotyping. Such conduct is prohibited by this policy.

Hate Crime: A criminal offense of any type committed against a person, property, or society which is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, gender identity, ethnicity, or national origin.

Investigation: The process of determining facts in response to a report. An investigation may be part of a formal or informal resolution process. An investigation will be directed by the Title IX coordinator.

Mandatory Reporter: Also known as "responsible employee." All faculty and staff members at UI&U are mandatory reporters and are required to notify the Title IX coordinator or one of the deputy Title IX coordinators if they become aware of a potential violation of the sexual misconduct policy. In the state of Ohio, instances that are potentially felonies must be reported to the local civil authorities. The Title IX coordinator will notify the local civil authorities in such instances. UI&U will honor a request for anonymity to the extent that is possible. Mandatory reporting is not contingent on whether or not there is an arrest or formal charge by law enforcement.

Notice: Notice of a possible violation of this sexual misconduct policy may be given by anyone, whether it be the complainant or another person, including the Title IX coordinator. As defined

by federal regulations from the U.S. Department of Education, “actual knowledge” to the university occurs when notice of sexual harassment or allegations of sexual harassment are made to the university’s Title IX coordinator or any official of the university who has authority to institute corrective measures on behalf of the university. All staff and faculty at the university are mandatory reporters, but not all mandatory reporters have authority to institute corrective measures on behalf of the university. For the purposes of this sexual misconduct policy, those having authority to institute corrective measures include the Title IX coordinator, the deputy Title IX coordinators, and President’s Cabinet. The university wants to know about any possible violations of this sexual misconduct policy and so encourages reporting such possible violations.

Rape: Rape is a violent form of sexual assault – an act of violence in which sex is used as a weapon. It includes any sexual intercourse with a person that occurs without their effective consent or when the person is unable to give consent. There are several different circumstances under which rape can occur.

- Stranger rape: the victim does not know the perpetrator.
- Acquaintance rape: the victim and the perpetrator are known to each other.
- Date rape: a type of acquaintance rape, when the assault occurs between two people who are dating partners.
- Marital rape: rape between spouses.

Report: Notice of an alleged violation of the university’s sexual misconduct policy.

Respondent: A person identified as alleged to have violated any provision of this sexual misconduct policy.

Sexual Assault: Sexual assault as defined by federal law means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Examples of forcible sex offense include rape, sodomy, sexual assault with an object, and fondling. Examples of non-forcible sex offense include incest and statutory rape.

Sex/Gender Discrimination: Sex discrimination means the unequal and unlawful treatment of a person based solely on that person's sex or gender, sexual orientation, or gender identity when the adverse actions affect either that individual’s employment or educational opportunities. Gender harassment and sexual harassment, including sexual violence, are forms of sex discrimination prohibited by this policy and federal law.

Sexual Harassment: As defined by federal regulations from the U.S. Department of Education, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- **Quid pro quo sexual harassment** (the Latin term for “this for that”) - An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual’s participation in unwelcome sexual conduct.
- **Hostile environment sexual harassment** - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity. Included within sexual harassment are sexual assault, dating violence, and stalking.

Sexual Misconduct: Sexual misconduct means non-consensual sexual contact, non-consensual sexual intercourse, sexual assault, or other non-consensual physical sexual conduct perpetrated against another. Sexual intercourse includes any oral, anal, or vaginal penetration,

to any degree, with any object. Sexual contact is any sexual touching, with any object, by any person upon another. Sexual touching includes touching of any erogenous areas such as a person's genitals, breasts, or buttocks. Sexual misconduct may also include sexual exhibitionism, peeping or other voyeurism, prostitution or solicitation of prostitution, or going beyond the scope of consent, e.g., by allowing others to view consensual sex or the non-consensual photographing or video or audio taping of sexual activity or distribution of recorded sexual activity.

Stalking: Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

The Importance of Consent

Consent is an affirmative decision to engage in mutually acceptable sexual activity given by clear actions or words. It is an informed decision made freely and actively by all parties. Relying solely upon nonverbal communication can lead to miscommunication. It is important not to make assumptions; if confusion or ambiguity on the issue of consent arises anytime during a sexual interaction, it is essential that each participant stops and clarifies, verbally, willingness to continue. Consent may not be inferred from silence, passivity, or lack of active resistance alone. Furthermore, a current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one's responsibility to obtain consent.

Conduct will be considered "without consent" if no clear consent, verbal or nonverbal, is given. It should be noted that in some situations an individual's ability to freely consent is taken away by another person or circumstance. Examples include, but are not limited to, when an individual is incapacitated due to alcohol or drugs, frightened, physically forced, asleep, unconscious, intimidated, coerced, mentally or physically impaired, beaten, threatened, isolated, or confined.

The Impact of Alcohol and Drugs

The use of alcohol or drugs can have unintended consequences. Alcohol or drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and effectively given. The perspective of a reasonable person similarly situated to the complainant and in consideration of the context of the behavior will be the basis for determining whether one should have known about the impact of the use of alcohol or drugs on another's ability to give consent. Being intoxicated or high is never an excuse for sexual misconduct.

Retaliation

Retaliation is prohibited under this policy. Any individual who believes they have been subjected to misconduct under this policy is encouraged and has the right to seek support, utilize available resources, and come forward with their concern or report. Fear of retaliation should never be an obstacle to reporting an incident of alleged sex/gender-based harassment, sexual violence, relationship violence, or any form of stalking. Retaliation is also prohibited against anyone who participates in an investigation of, or follow-up to, a report of a violation of this policy.

Rights of Complainant

- To be treated with respect before, during, and after the reporting process, investigation, and resolution of a potential violation of the sexual misconduct policy.
- To be informed of the university's process regarding sexual misconduct and possible outcomes.
- To receive substantive communication and, when warranted, procedural developments regarding an investigation.

- Note that the alleged conduct may also be criminal in nature, and the complainants have the right to report such conduct to the appropriate law enforcement agency. The university will provide assistance in the filing of such a complaint if requested. A criminal report does not preclude university disciplinary action. Likewise, the university may pursue a disciplinary action against a respondent regardless of whether or not a criminal complaint is filed.
- Complainants are strongly encouraged to seek counseling and support. Help with accessing appropriate resources is available through the Office of Student Success (students) or Human Resources (employees). Additional resources are listed under the Help and Resources section of this policy.
- An advisor of the complainant's choice may accompany them to any meeting with the investigator. Should the case go to a hearing, the complainant will be required to have an advisor, who can be but need not be a lawyer. If the complainant does not have an advisor, the university will provide one. In the event of a hearing, the advisor may directly question the respondent, but the complainant cannot. In the hearing, the respondent's advisor may directly question the complainant, but the respondent cannot.
- To have an educational environment that is free of discrimination and to prevent the recurrence of a hostile environment and, if appropriate, remedy the effects of the alleged harassment to the reporting party.

Rights of Respondent

- To be treated with respect before, during, and after the reporting process, investigation, and resolution of a potential violation of the sexual misconduct policy.
- To be informed of the university's process regarding sexual misconduct and possible outcomes.
- To receive substantive communication and, when warranted, procedural developments regarding an investigation.
 - Note that the alleged conduct may also be criminal in nature, and the respondents have the right to report such conduct to the appropriate law enforcement agency. The university will provide assistance in the filing of such a complaint if requested. A criminal report does not preclude university disciplinary action. Likewise, the university may pursue a disciplinary action against a respondent regardless of whether or not a criminal report is filed.
- Respondents are strongly encouraged to seek counseling and support. Help with accessing appropriate resources is available through the Office of Student Support Services (students) or Human Resources (employees). Additional resources are listed under the Help and Resources section of this policy.
- An advisor of the respondent's choice may accompany them to any meeting with the investigator. Should the case go to a hearing, the respondent will be required to have an advisor, who can be but need not be a lawyer. If the respondent does not have an advisor, the university will provide one. In the event of a hearing, the advisor may directly question the complaint, but the respondent cannot. In the hearing, the complainant's advisor may directly question the respondent, but the complainant cannot.
- Respondents can expect a presumption of innocence throughout the investigation process unless and until they are found responsible for a violation of this policy.

Prevention

UI&U strives to foster a safe learning and working environment, considering both physical surroundings and the university's response to allegations of sexual assault. The university monitors the physical surroundings of its centers to enhance security and safety through lighting, limited facilities access, security staff, etc. While there is no absolute way to prevent a sexual assault, there are a number of simple precautions that can be taken to minimize risk: individuals should be aware of their surroundings and not let alcohol or other drugs cloud their judgment; keep home, office, and car doors and windows locked; do not lend your keys to anyone you do not trust completely; do not put your name or address on your key ring; do not provide personal contact information (personal email, phone number, address) to someone you do not know and trust; always watch for unidentified visitors to UI&U facilities; report unknown visitors immediately; stay away from isolated or dark areas; walk with a companion or in a group whenever possible.

As part of its commitment to providing a safe learning and working environment free from all forms of sexual misconduct, UI&U provides ongoing training opportunities for students and employees in the prevention and remedy of sexual misconduct.

Reporting a Violation

The university's Title IX coordinator shall have overall responsibility for coordinating compliance with this policy. The Title IX coordinator will report to the vice president for human resources (VPHR) for cases where the complainant is a student. The Title IX coordinator will report to the provost/vice president for academic affairs (provost/VPAA) for cases where the complainant is an employee (faculty or staff). Any student, employee, or other individual who believes a violation of this policy has occurred may file a complaint with any UI&U mandatory reporter. However, the university encourages reports be submitted in writing to the Title IX coordinator or deputy Title IX coordinator whose contact information is listed below. The report should describe the alleged incident, where and when it occurred, and the desired remedy sought. There is no official statute of time limitations for submitting a report. However, the university encourages reports of violations be filed quickly to maximize the institution's opportunity to respond and investigate. All faculty and staff are mandatory reporters, and as such, all employees who become aware of conduct that might fall under this policy are required to notify the Title IX coordinator, or a deputy Title IX coordinator, with the names of the parties involved and any known details as soon as possible.

The university cannot guarantee complete confidentiality when reports of possible Title IX violations are received. All employees of the university are mandatory reporters and must report possible Title IX violations of which they are aware to the Title IX coordinator or one of the deputy Title IX coordinators. If a case is investigated, the sharing of details of the investigation will be limited to the complainant and the respondent, their advisors, the investigator, and university personnel involved in the Title IX process. If the case goes to a hearing, those present will include the complainant and the respondent, their advisors, witnesses, and the three-person hearing board. Confidentiality is also affected when the safety of members of the university community (including the complainant) or when the university is required by law to disclose the information, or when issues of equity require disclosure. The university encourages complainants to report violations that might be subject to criminal action to appropriate law enforcement officials. As necessary and as required by the laws of the locality, the university reserves the right to initiate a report, to serve as complainant, and to initiate conduct proceedings without a formal report by the person who would typically be the complainant. All participants (including the complainant, respondent, witnesses, advisors, investigators and others) involved in any part of the reporting, investigative, resolution, or appeals process are

expected to respect the confidentiality of the proceedings and circumstances giving rise to the report.

Coverage Under Title IX

For a formal complaint to be processed under Title IX, the incident alleged in the complaint must meet the following conditions:

- 1) It must meet the definition of sexual harassment as defined above, which reflects 34 CFR § 106.30 in the U.S. Department of Education's regulations.
- 2) It must have occurred within the scope of one of the university's education programs or activities.
- 3) It must have occurred against a person in the United States.

It may be that while the incident alleged in the complaint is not covered under Title IX, it may be a violation of the Policies Governing Student Conduct, or a violation of terms and expectation of other university policies.

Contacts

Title IX Coordinator

Dr. Peter Caccavari
Associate Vice President for Institutional Effectiveness
440 East McMillan Street
Cincinnati, OH 45206
513.487.1138, 800.861.6400, ext. x1138
pete.caccavari@myunion.edu

Deputy Title IX Coordinators

The deputy Title IX coordinators will assist the Title IX coordinator by forwarding any reports or notice of possible violations of this policy promptly to the Title IX coordinator; will assist complainants and respondents and refer them to local resources as appropriate; will notify local law enforcement if necessary; and will offer overall help in coordinating and implementing the university's Title IX compliance efforts and related reporting and disclosure laws concerning campus safety for their respective centers. In addition, deputy Title IX coordinators will serve as members of hearing boards.

Dr. Rhonda Brinkley-Kennedy
Dean, Educational Transformation and Strategic Alliances and Special Assistant to the President
6701 Center Drive West #1200
Los Angeles, CA 90045
800.486.8328 ext. 1722
rhonda.brinkley-kennedy@myunion.edu

Dr. Jay Keehn
Executive Director for Student Support Services
4601 Sheridan Street, Ste. 400
Hollywood, FL 33021
800.486.7141 ext. 2140
jay.keehn@myunion.edu

Dr. Jennifer Raymond
Interim Dean, Doctor of Philosophy in Interdisciplinary Studies

440 E. McMillan Street
Cincinnati, OH 45206-1925
800-861-6400 ext. 1019
jennifer.raymond@myunion.edu

Sarah Wallis
Special Assistant to the Provost
440 E. McMillan Street
Cincinnati, OH 45206-1925
800-861-6400 ext. 1197
sarah.wallis@myunion.edu

Resolution Process

The Title IX coordinator is responsible for investigating reports of violations of this sexual misconduct policy, including the possible utilization of external investigators and deputy Title IX coordinators. Upon receipt of a report of sexual misconduct, the Title IX coordinator will conduct an initial assessment of the report and any supporting documentation to determine the appropriate course of action. This course of action may include:

1. A determination that the alleged incident is not covered under Title IX.
2. A determination that the alleged incident does not rise to the level of a violation covered under this policy.
3. An informal resolution approach.
4. The initiation of a formal investigation.

The university will seek action consistent with the complainant's request where possible. Any individual seeking informal resolutions or mediation should discuss these options with the Title IX coordinator. Informal resolution or mediation is not an option for any allegation of sexual assault or violence. Interim, immediate measures may be taken during the course of the informal resolution process and/or investigation to ensure the safety and well-being of the complainant and/or the university at large. These measures will be imposed in a way that balances rights of the complainant and the rights of the respondent.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to, extensions of deadlines or other course-related adjustments, referrals to counseling services or support organizations, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The university will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

Individuals with reports of sexual misconduct also have the right to file a formal complaint with the U.S. Department of Education:

U.S. Department of Education, Office for Civil Rights (OCR)
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100 or by visiting <http://www.ed.gov/ocr> or calling 800.421.3481.

Informal Resolution Process

Where appropriate, it is hoped that resolution of any complaint not involving sexual assault or violence will begin with a sincere attempt at informal resolution. Individuals are encouraged to discuss their concerns with the Title IX coordinator and if the complainant agrees, concerns will be resolved through interactive discussion between the parties and if appropriate, a remedies-based resolution. Informal resolution or mediation is not an option for any allegation of sexual assault or violence.

Remedies-based resolution is a non-disciplinary approach designed to eliminate a hostile environment without initiating a potential disciplinary action against a respondent. Resolution measures may include, but are not limited to, a no-contact order between the parties, adjustments in class schedules, and/or adjustments in group work within classes. All involved parties will be notified in writing by the Title IX coordinator of the allegation and the suggested resolutions within 14 days of the parties agreeing to an informal resolution.

Formal Resolution Process

If the complainant does not believe that a satisfactory resolution has been reached at the informal resolution stage, or the complainant prefers to skip the informal resolution process, the formal resolution process will involve the steps below.

1. Report
 - a. Complainant should submit a written report to the Title IX coordinator. Any supporting documentation and evidence should be referenced in the written report. If the complainant prefers, the complainant can give a verbal statement by phone or in person to the Title IX coordinator.
2. Investigation
 - a. The Title IX coordinator (or another investigator designated by the Title IX coordinator) will begin a formal investigation. The investigation will include interviews with the complainant, the respondent, and any applicable witnesses, as well as review of any applicable documentation or physical evidence.
 - b. Should a complaint be filed against the Title IX coordinator, the provost/vice president for academic affairs (provost/VPAA) or the vice president for human resources (VPHR) will coordinate the investigation as appropriate.
 - c. The university prohibits any intentional false reports of incidents. Such intentional false reporting is a violation of the Policies Governing Student Conduct and Employee Workplace standards policy.
 - d. The complainant, respondent, and, if applicable, their advisors, will have access to all evidence collected during the investigation upon request. When requested, the evidence will be provided electronically.

- e. The Title IX coordinator (or another investigator designated by the Title IX coordinator) will conduct a thorough and impartial investigation. Every attempt will be made to deliver a draft report to the complainant, respondent, and, if applicable, their advisors, within 60 days of the initiation of the report. The complexity of some cases and/or unforeseen circumstances may cause the process to exceed 60 days. The university seeks to balance the needs for timely resolution and a thorough and impartial investigation. If the draft report will take longer than 60 days, the Title IX coordinator will send written notice to the complainant, respondent, and, if applicable, their advisors.
- f. At the conclusion of the investigation, the Title IX coordinator will provide all collected evidence to the complainant, respondent, and, if applicable, their advisors. The evidence will be provided electronically. The parties will have 10 business days to submit a written response on the collected evidence if they choose to do so. The Title IX coordinator will consider any responses to the evidence prior to completion of the investigation report.
- g. The Title IX coordinator will then draft the investigation report and send it to the complainant, the respondent, and, if applicable, their advisors. The complainant and the respondent will have 10 business days to review the draft of the investigation report and submit a written response on the draft of the investigation report to the Title IX coordinator if they choose to do so. The investigation report will include the names of the complainant, respondent, details from the investigation, a timeline of significant events, and a conclusion about what evidence there is for determining whether the respondent is or is not responsible for having violated the sexual misconduct policy. The Title IX coordinator will consider any responses to the draft of the investigation report, making any changes to the investigation report as the Title IX coordinator considers needed based on those responses. The Title IX coordinator will include those responses verbatim with the final investigation report. The Title IX coordinator will then send the final version of the investigation report to the complainant, respondent, and, if applicable, their advisors.
- h. The Title IX coordinator will then select a hearing board who schedules a live hearing.

3. Hearing

- a. A hearing board composed of three officials representing the university is formed. The hearing board reviews the investigation report. One of the members of the hearing board will be named the chair.
- b. The hearing will consist of the complainant, the respondent, their advisors, and any witnesses. While advisors are not required for the investigation portion of the process, they are required for the live hearing. If the complainant or respondent do not have an advisor prior to the hearing, the university will provide an advisor. Advisors are allowed to ask questions directly of the complainant or respondent. Neither the complainant nor the respondent may ask questions of each other directly.
- c. While the hearing must be live, it does not need to be such that all participants are located in a single room. In fact, due to the distributed nature of the university and its students and employees, it is most likely that the hearing will be conducted via teleconferencing technology. The complainant and the respondent

will not be in the same room unless both the complainant and the respondent prefer to be in the same room.

- d. The hearing must be recorded.
- e. The chair of the hearing board will determine whether or not any particular question asked by an advisor is relevant. If the chair determines that a question is not relevant, the chair must explain why the question is not relevant.
- f. If a complainant, respondent, or witness does not submit to cross-examination at the hearing, then the hearing board cannot consider any statements made by that person as evidence in reaching their decision.
- g. Structure of the hearing
 - i. The chair of the hearing board states the ground rules for the hearing, logistics for technology, etc.
 - ii. The complainant and the respondent may make a verbal statement to the hearing board if they wish.
 - iii. The complainant's advisor provides an opening statement.
 - iv. The respondent's advisor provides an opening statement.
 - v. The complainant's advisor provides evidence and cross-examines witnesses and the respondent as they choose.
 - vi. Then the respondent's advisor provides evidence and cross-examines witnesses and the respondent as they choose.
 - vii. The chair of the hearing board announces next steps in the process.
 - viii. The hearing concludes.

4. Decision

- a. The hearing board meets to decide if the respondent is responsible for a violation of the sexual misconduct policy. A decision is reached when at least two of the three hearing board members agree as to whether or not the responding party is responsible. The hearing board will use a "preponderance of the evidence" standard and evaluate available information from the perspective of a reasonable person in the reporting party's position and in consideration of the context of the behavior.
- b. When the hearing board reaches a conclusion, they give a written decision to the Title IX coordinator within seven business days.
- c. The written decision will include the following:
 - i. Identification of the allegations potentially constituting violations of the sexual misconduct policy.
 - ii. A description of the procedural steps taken from the receipt of the formal complaint through the determination. Those procedural steps will include any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
 - iii. Findings of fact supporting the determination.
 - iv. Conclusions regarding the application of the sexual misconduct policy to the facts.
 - v. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.

- vi. If the respondent is found responsible for having violated the sexual misconduct policy, the written decision will include any sanctions determined by the hearing board.
 - 1. Possible sanctions can include, but are not limited to, expulsion from the university, suspension, required counseling or training, or termination of employment.
 - vii. Any remedies designed to restore or preserve equal access to the university's education program or activity will be provided by the university to the complainant.
 - viii. The procedures and permissible bases for the complainant and respondent to appeal.
- d. The Title IX coordinator will send the completed written decision to the complainant and respondent within 10 business days of the conclusion of the hearing.

5. Appeals

a. Appeal Process

- i. The hearing board's written decision may be appealed by either party by filing a written appeal. If the complainant is a student, a written appeal by either the complainant or the respondent would be addressed to the provost/VPAA. If the complainant is an employee (including faculty and staff), a written appeal by either the complainant or the respondent would be addressed to the VPHR.
- ii. The appeal process is not intended to re-hear the same case and is limited to the specific grounds outlined below.
- iii. Any resolution or sanction will remain in force while an appeal is considered and a final decision is determined.
- iv. Each student/employee is limited to one appeal per case, and the decision of the appeal is final.
- v. For the appeal to be considered, the appellant must submit a written notice to the provost/VPAA or VPHR within 15 business days of receipt of the written decision. This written appeal must state the specific grounds for the appeal and should include any supporting documentation.
- vi. The Title IX coordinator will notify in writing the complainant and the respondent of any appeal, what the grounds for the appeal are within five business days of the date when the request for appeal was received by the provost/VPAA or VPHR.
- vii. The complainant and the respondent will be notified in writing of the appeals decision of the provost/VPAA or VPHR within 15 business days of when the Title IX coordinator sent notification of the appeal to the complainant and respondent.

b. Grounds for Appeal

- i. Procedural irregularity that affected the outcome of the matter.
- ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could

affect the outcome of the matter. This new information must be included with the request for appeal.

- iii. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- iv. Dissatisfaction with a decision is not grounds for an appeal. Non-attendance or non-participation in the process is not considered new evidence or grounds for an appeal.

Help and Resources

It is especially important for students or employees who have been sexually assaulted to seek immediate and appropriate medical treatment. This is not only important for the victim's health, but will be vital for gathering of necessary evidence for criminal investigations. Emergency medical services should be summoned as soon as possible for assault and violence incidents.

Often the impact of sexual assault or violence is invisible and victims of sexual assault or violence may need mental health counseling to assist them in dealing with the trauma.

University Resources

Human Resources

Employees who need assistance in securing outside help or services should contact Human Resources at 800.861.6400.

Office of Student Support Services

Students who need assistance in securing outside help or services should contact Dr. Jay Keehn, Executive Director for Student Support Services at 800-861-6400 x ext. 2140 jay.keehn@myunion.edu.

ADA Coordinator

Students whose academic performance is adversely affected by a violation of this policy should consult with the ADA coordinator about possible accommodations:

ADA Coordinator
Dr. Jay Keehn
Executive Director for Student Support Services
4601 Sheridan Street, Suite 400
Hollywood, FL 33021
800.486.7141 ext. 2140
jay.keehn@myunion.edu

National Resources

Rape, Abuse and Incest National Network

The nation's largest anti-sexual assault organization, RAINN operates the National Sexual Assault Hotline, 800.656.HOPE, and carries out programs to prevent sexual assault. www.rainn.org.

Center for Changing Our Campus Culture

The Center for Changing Our Campus Culture is a resource center supported by the U.S. Department of Justice's Office of Violence against Women.

<http://changingourcampus.org/>.

- Then click on the Resources tab.

Local/Regional Resources

Cincinnati

- Police
 - 911 or 513.569.8600
- Women Helping Women
 - 24-Hour Hotline: 513.381.5610 or 877.889.5619
 - <http://www.womenhelpingwomen.org/>
- Ohio Alliance to End Sexual Violence
 - 888.886.8388
 - <http://www.oaesv.org/>

Sacramento

- Police
 - 911 or 916.264.5471
- California Coalition Against Sexual Assault
 - 916.446.2520
 - www.calcasa.org

Los Angeles

- Police
 - 911 or 877.275.5273
- California Coalition Against Sexual Assault
 - 916.446.2520
 - www.calcasa.org

Florida

- Police
 - 911 or [305.949.5500](http://www.fcasv.org)
- Florida Council Against Sexual Violence
 - 850.297.2000
 - www.fcasv.org

Related Policies

For students: Policies Governing Student Conduct

In the case of allegations of sexual misconduct (including sexual harassment), this sexual misconduct policy supersedes any conflicting procedures and policies set forth in other university documents.