

## I. SEXUAL MISCONDUCT PROCEDURES

In accordance with federal guidelines, the university will conduct investigations and hearings of sexual misconduct following the procedures outlined in this section of the Policy. Sexual misconduct includes Title IX sexual harassment, hostile environment sexual harassment, sexual assault, stalking, dating violence, sexual violence, sexual exploitation, and domestic violence. For more information please visit the UIC Sexual Misconduct website at [sexualmisconduct.uic.edu](http://sexualmisconduct.uic.edu).

The UIC Sexual Misconduct policy defines Title IX sexual harassment as “any unwelcome conduct that a reasonable person would find so severe, pervasive and objectively offensive that it denies a person equal educational access.”

If the Office of Access and Equity review and investigation determines that the complaint meets this standard, the case is referred to the Dean of Students upon completion of the investigation. The hearing process used is referred to as the Title IX Sexual Harassment Hearing process.

If the Office of Access and Equity review and investigation determines that the complaint did not meet the Title IX sexual harassment standard however there are alleged violations of the Student Disciplinary Policy, the case would be referred to the Dean of Students upon completion of the investigation. The hearing process used is referred to as the Student Sexual Misconduct Hearing process.

### A. Sexual Misconduct Investigations

A Sexual Misconduct Investigation is conducted by Investigator(s) in the Office of Access and Equity as designated by the Title IX Coordinator. For more information about Sexual Misconduct Investigations, please visit the website [sexualmisconduct.uic.edu](http://sexualmisconduct.uic.edu). Students retain the right to supportive measures at any time during the investigation or hearing process. Processing a report or complaint of sexual misconduct does not preclude processing some or all allegations of a report or complaint under other policies and procedures, to the extent allowed by Title IX and other laws and applicable policies.

### B. Referral to the Title IX Coordinator for Investigation (Sexual Misconduct Complaints):

If the conduct described in the complaint alleges a violation of the UIC Sexual Misconduct Policy, the complaint will be forwarded to the Title IX Coordinator.

When the Title IX Coordinator receives a report of sexual misconduct, whether the alleged offense occurred on or off campus, reporter and/or Complainant will be provided with a written outreach including:

- Rights and options related to reporting the incident and requesting and receiving assistance from the University, law enforcement, confidential resources, and/or other providers;
- Summary of the University’s complaint resolution procedures, including the grievance process for Formal Complaints of Title IX Sexual Harassment;
- Availability of supportive measures, including interim safety measures, academic measures, and counseling services, with or without the filing of a Formal Complaint;
- Inquiry regarding the Complainant’s wishes with respect to supportive measures;
- Information about the individual’s rights to privacy and confidentiality;

- List of support services and resources at UIC and within the community (see resources and contact information at the end of this section).

### C. Sexual Misconduct Complaints

#### 1. Filing Complaints of Sexual Misconduct

Complaints filed with the Dean of Students involving allegations of sexual misconduct are referred to the Title IX Coordinator in the Office of Access and Equity. The Dean of Students or Title IX Coordinator may impose supportive measures prior to, during, and/or upon the completion of the sexual misconduct investigation.

#### 2. Formal Complaint

A formal complaint of sexual misconduct may be signed by a complainant who is a student or by the Title IX Coordinator.

#### 3. Student Choice to Participate in a Hearing

Students may choose to participate or decline to participate in any university process related to sexual misconduct. If a student declines to participate in a sexual misconduct investigation, the University may continue to investigate the matter, initiate a student conduct hearing, and/or issue findings/sanctions based on available information.

**Title IX Sexual Misconduct Hearing:** Due to federal requirements for cross-examination students who decline to participate in a hearing related to an alleged violation of the sexual harassment policy will not have their statements or evidence considered by the Student Conduct Committee for decision and adjudication.

**Student Sexual Misconduct Hearing:** For all reports or complaints of sexual misconduct that are outside the scope of Title IX Sexual Harassment, students who decline to participate in a hearing will have their evidence and statements considered by the Student Conduct Committee for decision and adjudication.

### D. Hearing Guidelines and Information

Sexual Misconduct Hearings follow the hearing guidelines described in the Student Disciplinary Policy Article VII. In addition, the following guidelines and information are applicable for sexual misconduct cases:

#### 1. Pending Legal Proceedings

- Students may initiate and participate in criminal and/or civil proceedings in connection with a Sexual Misconduct report. The University will fulfill its legal and ethical obligation to take immediate and appropriate action to investigate possible Sexual Misconduct, even if there are other external processes or procedures pending in connection with the same Sexual Misconduct report.
- The standards for criminal investigations differ from the standards for a violation of the Standards of Conduct established in the Student Disciplinary Policy and, therefore, the University will not limit its actions based solely on law enforcement reports and criminal/civil proceedings. Accordingly, the University will not normally wait for the conclusion of a criminal investigation or other proceedings before implementing its review of reported Sexual Misconduct and taking appropriate action.

#### 2. Protection from Retaliation

Retaliation for participation in the Sexual Misconduct process is prohibited by University

policy. The University will take appropriate steps to address allegations of retaliation for reporting Sexual Misconduct or participating in the investigation or adjudication of reported Sexual Misconduct. Anyone who believes they are experiencing retaliation is strongly encouraged to report the concern to the Dean of Students. A report of retaliation will be reviewed as a separate violation under the Sexual Misconduct Policy and Student Disciplinary Policy. A person can be found responsible for retaliation even if not found to be responsible for the reported Sexual Misconduct.

### **3. Timeliness of Process**

There are many factors that may affect the length of time needed to complete various portions of the resolution process fairly and equitably. Once the Title IX investigation is complete, the Dean of Students will move to schedule a hearing as soon as all parties are available to participate, but not sooner than ten (10) days from the receipt of the Title IX investigative report.

### **4. Request for Delays**

**Requests for delays will typically not be granted in cases involving a complaint of sexual misconduct.**

### **5. Amnesty Provision for Alcohol/Drug**

To encourage reporting, the University will not pursue disciplinary actions for alcohol/drug violations against a student making a good faith report of Sexual Misconduct. The University may utilize educational responses as appropriate through the Dean of Students.

### **6. Advisors for Title IX Sexual Harassment Hearings**

Prior to the Title IX Sexual Harassment hearing, the Complainant and Respondent must choose an advisor to accompany them to the hearing and notify the university of who their advisor will be. If a student does not have an advisor for the hearing, the University will provide an advisor without fee or charge to the student. The student's advisor will be responsible for conducting cross-examination on behalf of the student. It is recommended that the Complainant and Respondent obtain and engage with an advisor throughout the sexual misconduct investigatory process.

### **7. Support Person/Advocate for All Sexual Misconduct Hearings**

The Respondent and Complainant are allowed to bring a support person as described in Section VII Part A Subsection 4.

### **8. Admittance of Statements and Evidence for Title IX Sexual Harassment Hearings**

If a Complainant, Respondent, or witness does not submit to cross-examination at the Student Conduct Hearing, the Student Conduct Committee cannot consider any statements or evidence presented by those individuals in reaching a determination regarding responsibility; provided however, that the Student Conduct Committee cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

## **E. Sexual Misconduct Hearing Procedures**

Sexual Misconduct Hearings will follow the Student Conduct Hearing procedures described in the Student Disciplinary Policy Article IX, Section B. In addition the following information and procedures are applicable:

### **i. Presentation of Evidence**

During the presentation of the evidence segment of the student conduct hearing; the Title IX Coordinator or designee will present a summary of the investigation. The complainant,

respondent, and student conduct committee members will have an opportunity to ask questions, through the Chair of the Student Conduct Hearing Committee, related to the investigation. The Title IX Coordinator remains for the duration of the hearing in order to allow all parties an opportunity to ask questions.

**ii. Cross Examination for Title IX Sexual Harassment Hearings**

Following the presentation of evidence by Complainant and Complainant's witnesses, the hearing chair will permit Respondent's advisor to ask Complainant and any witnesses all relevant questions and follow-up questions. Similarly, following the presentation of evidence by Respondent and Respondent's witnesses, the hearing chair will permit Complainant's advisor to ask Respondent and any witnesses all relevant questions and follow-up questions.

Cross-examination of a party must be conducted directly, orally, and in real time by the party's advisor of choice and never by a student personally. Before a Complainant, Respondent, or witness answers a cross-examination question, the Chair of the Student Conduct Hearing Committee must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Only relevant cross-examination and other questions may be asked of a party or witness. Final decision of relevancy of a question lies with the Chair of the Student Conduct Hearing Committee.

**iii. Questioning for Student Sexual Misconduct Hearings**

For student sexual misconduct hearings, the Complainant and Respondent are not allowed to personally question each other. Instead, all questions must be directed through the Chair of the Student Conduct Hearing Committee.

**iv. Prior Sexual History**

In cases concerning accusations of sexual misconduct, past sexual history of any involved party will not be admitted in evidence or testimony unless directly relevant to the matter under consideration. The mere fact of a previous consensual dating or sexual relationship between the involved parties does not itself, imply consent to the act(s) under investigation or preclude a finding of sexual misconduct.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or such questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

**v. Standard of Proof**

The outcome of a student conduct proceeding will be made using the preponderance of the evidence standard. The preponderance of the evidence standard requires the student conduct committee to determine whether or not it is more likely than not that sexual misconduct occurred.

**vi. Sanctions**

The sanctioning process for sexual misconduct is designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting the University's educational

mission and Title IX requirements. Sanctions may also serve to promote safety or deter students from similar future behavior. Sanctions will take into consideration the gravity of the student's actions and the student's entire conduct records at the university and will be designed to (1) hold students accountable for their actions and the resulting or potential consequences of such actions, and (2) protect the safety of the university community. A full description of the available sanctions is described in Section V.

**vii. Notification of Hearing Outcome**

1. A written notice will be sent simultaneously to the complainant and the respondent informing each student about the outcome of the Hearing as determined by the Student Conduct Committee.
2. If a student complainant has chosen not to participate in the University's review of the sexual misconduct report but desires to be notified of the outcome, the University will notify the student. If the student has expressed a desire, in writing, not to be notified of the outcome, the University will honor that decision. In such cases, the University will not send the notification itself to the student, but may proceed with any necessary follow-up and may need to provide notification of that follow-up if appropriate.

**viii. Appeals**

Both the Complainant and the Respondent have the right to appeal the hearing outcome in the same manner as described in Article X. In those cases, both students will receive written notification, simultaneously, of the final determination of the Appeal Committee.

**F. Sexual Misconduct Hearing Committee**

Members of the Student Conduct Committee who will serve in hearings related to Sexual Misconduct will consist of those members who have received specialized training related to Sexual Misconduct, consistent with the requirements of applicable law. Members of the Student Conduct Committee in sexual misconduct hearings may not participate in the Title IX investigation or any previous complaint resolution procedures associated with the specific student complaint. The complainant and respondent will receive notice prior to the Student Conduct Hearing, of the individuals with authority to make a finding or impose a sanction in their proceeding and have the opportunity to request a substitution if the participation of an individual poses a conflict of interest

