

Comprehensive Plan  
IU East  
Procedures for Addressing  
Sexual Harassment,  
Gender Discrimination  
or  
A Hostile Work  
Environment.

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### **PREAMBLE**

***These guidelines are developed within the framework of the enforcement principles outlined in Section D of the Indiana University policy against sexual harassment, approved by the Board of Trustees on June 15, 1998.***

***It is not the purpose of these guidelines to resolve criminal complaints. Any complaint reported to persons in authority at the University, which clearly involve a violation of criminal laws shall immediately be referred to the appropriate law enforcement authority.***

***Nothing contained in this document shall be construed to mean that parties with grievances addressable under these guidelines shall be compelled to seek resolution by their use. Any party with a grievance has several options available to them, and these guidelines provide information about options available within the university. Options include but are not limited to, informal resolution with a mediator of the joint choice of the parties at interest, self-mediation or formal fact-finding. Complainants will not have multiple options concurrently, but may have two consecutive options: one informal and formal.***

***We, the Community of IU East, in an effort to provide a standardized mechanism for the consistent, timely, and orderly resolution of allegations involving sexual harassment, gender discrimination, and hostile work environment have set forth optional procedures for the handling of such complaints.***

***The hallmark of these guidelines shall be fundamental fairness applied in the most non-adversarial setting possible, with all parties in a position to contribute to the resolution of the allegations having an opportunity to be heard.***

***Proceedings shall commence under these guidelines without presumptions related to any alleged conduct or party at interest identified in a complaint upon which such proceedings are predicated.***

## **WHERE TO MAKE YOUR COMPLAINT:**

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You may choose:

- 1) University's Affirmative Action Officer,
- 2) Any person of Authority on campus.

You will be supplied with an information folder. If a complainant furnishes any form of written or verbal complaint to any person in a position of authority at IU East, it is incumbent upon the person in authority to provide the AAO (Affirmative Action Officer) with this information in a written form. The AAO will contact you for further decisions and actions regarding your complaint. Please acquaint yourself thoroughly with the contents in the folder as well as definitions in Appendix D as you prepare to meet with the AAO to discuss your options.

## **YOUR OPTIONS:**

If you have a complaint involving sexual harassment, gender discrimination, or a hostile work environment at IU East you will find two courses of action by which you may seek a resolution to your complaint. The University does not want to participate in your decision to proceed or not to proceed with any of these options and will make no recommendation to you for such purposes. In essence, it is your complaint, and you are in control of what you want to do with it. You may choose either informal or formal methods to resolve your complaint. However, you may choose one informal option to resolve the complaint. If an effort to resolve a problem informally is unsuccessful, the complainant may pursue a formal procedure.

**Informal: 90 days to resolve.**

**Option 1:** Conflict Resolution Center.

**Option 2:** AAO mediates & facilitates a solution.

**Option 3:** Mediator from campus chosen by the complainant and the alleged offender.

**Option 4:** Complainant and the alleged offender talk to resolve.

**Formal: 90 days to resolve.**

File a complaint with the AAO and begin a process of fact-finding with a goal of resolution of the complaint.

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**Note:** \_\_\_\_\_ An option to use state agencies is always open to you and you may initiate a complaint with the appropriate state agency at any time.

## **GENERAL INFORMATION**

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### **Statutory and Constitutional Conformity:**

These procedures are not intended to conflict with laws of the State of Indiana or of the United States. Construction of the provisions herein shall conform to all relevant Statutory and Constitutional mandates.

### **Compliance**

Construction of the provisions herein shall conform to university-wide policy. Parties may seek informal resolutions from one of four options; however, a record of the complaint and the identity of the parties in conflict will be made for the School's protection. However, it is also resolved that these guidelines are available to all who wish to make use of them. No options, using these guidelines or any other option for resolving complaints, should be recommended to a complainant. It is important that all of the available options are made known to the complainant, who is thereafter left to make a decision about those options without additional input by any university official. If the complainant has elected to use the formal option to resolve a complaint, the determination of whether or not the allegation constitutes a grievance cognizable under the guidelines shall be made only by the fact finding panel.

### **Procedure for the AAO**

It shall be the responsibility of the AAO to notify the Chancellor. After notifying the Chancellor the AAO will contact the complainant in writing and make the following inquiries: "Do you desire to file a written complaint, and do you object to our soliciting the alleged offender's statement of facts concerning this event?" If the complainant will not sign a complaint form and will not permit contact with the alleged offender, a file will be made of the document submitted by the person in authority. Relevant names will be indexed. If the complainant agrees to contact by the AAO with the alleged offender, the AAO will invite the alleged offender to respond in writing to the complaint. The alleged offender should be notified that a written response or a memorandum of a verbal response or lack of response would be filed.

### **Retaliation**

Retaliation in any form will not be tolerated at IU East. Retaliation of any sort by any person, regardless of involvement or non-involvement as a party in a complaint, against any person connected with the complaint can be treated as a new complaint.

### **Files and Indexing**

The AAO shall file a report of any option chosen by the parties at interest in the complaint file. Agreements will be kept in the file. The AAO shall also maintain two indices. One shall contain the complainant's name(s) as found on each complaint form. The other index shall contain the name(s) of each alleged offender as found on the complaint forms. The purpose of these indices is to identify repeat complainants as well as repeat offenders and facilitate the amalgamation of relevant information maintained by the University. Any sexual harassment report made to persons in authority at IU EAST will be referred to the AAO, to be included in these indices. Record keeping for the formal procedure is described later in this document.

### **File Destruction**

The files must be preserved for ten years before destruction. However, the disposition and a brief abstract of the file shall be maintained for an additional ten years. It shall be the responsibility of the AAO to facilitate file destruction and maintenance. In situations where complaints cannot be resolved by a unanimous conclusion of fact, an abstract of the efforts to resolve the complaint must be made and filed for a ten-year period. Other records filed by the AAO about the complaint should be destroyed after expiration of an appeal time limit.

### **Privacy and Confidentiality**

The University recognizes that because of the sensitive nature of complaints such as sexual harassment there is a need to protect the privacy of all parties, guard against retaliation, and avoid adverse publicity and possible defamation lawsuits. However, all parties must understand that absolute confidentiality cannot be guaranteed. These confidentiality provisions do not preclude the placement of dispositions in the personnel file of offenders, to be made available in the discretion of the Chancellor to prospective employers or in response to other lawfully proper inquiries, *See Appendix B for the confidentiality pledge*. Nothing herein shall be construed to require confidentiality or secrecy on the part of the complainant or the offender. Wherever in conflict with state or federal laws, confidentiality requirements stated herein shall be construed to comply with those laws.

### **Advocates**

*Selection or Appointment of Advocates:* The IU East Commission on the Status of Women will not advocate for either the complainant(s), the alleged offender(s), or any witness of a complaint in sexual harassment, gender discrimination, or hostile environment matters; however, if appropriate either party or the Chancellor may select a member of the Commission on the Status of Women to be their advocate so long as that Advocate is not a current member of the Trained Pool. Selection of advocates need not be confined to the Commission on the Status of Women; however, advocates must come from the University Community unless one of the parties has hired legal representation. In the event legal representation has been hired, further proceedings under these guidelines

shall be suspended and that party and the attorney shall be referred to the University's legal office for further disposition.

*Role of Advocates:* An advocate's role shall be limited to furnishing non-legal advice and assisting the parties in the presentation of issues and evidence outside the presence of the Fact-Finding Panel. The identity of all advocates must be made known to the Fact Finding Panel and that advocate will be required to sign a copy of a confidentiality statement as found herein in Appendix B. Advocates are bound by all of the same confidentiality requirements as are incumbent upon any of the other parties to complaints handled under these guidelines. Advocates are not to be compensated by the parties or the University in any way.

*Obligations of the parties to their advocates:* Parties choosing to utilize the services and moral support of an advocate under these guidelines agree to hold advocates blameless regardless of resulting recommendations and findings of fact.

### **Costs**

All procedural or administrative costs legitimately associated with the Fact Finding Panel's efforts to arrive at a conclusion of fact will be borne by IU East.

## **INFORMAL PROCEDURES**

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### **General**

Individuals who believe that sexual harassment, a hostile environment and/or gender discrimination have occurred, should feel free to discuss the problem the AAO or a person in a position of authority on the IU East campus. In such situations, the offended party may also request the person consulted to speak informally with the alleged offender(s) informing them of the salient features of the complaint. If this process does not resolve the matter, or if the complainant prefers, the offended party may pursue any of the avenues of resolution listed below.

If the complaining party seeks a preliminary informational and advising session with the Office of Affirmative Action, an opportunity for full discussion of the case will be provided. The Affirmative Action Officer will aid the complaining party in exploring all possible options for resolving the complaint as effectively as possible. The Affirmative Action Officer will prepare an incident report containing only the names and the nature of the complaint. The Office of Affirmative Action makes every effort to protect the privacy of the persons involved in any conversation about discrimination. The Affirmative Action Officer releases information on individuals only with the permission of the parties involved or when required by law or the rules of the complaint resolution procedures.

### **Informal Complaint Resolution: Four Options**

The goal of informal complaint resolution-whether mediation or other ways of resolving complaints-is to provide a forum where the complaining and responding parties can come to a mutually agreed-upon resolution. Alternative dispute resolution works only when both the complaining and responding parties voluntarily participate in the process. Hence, the identity of the complaining party, the identity of the responding party, and the nature of the complaint will be known to all parties.

The AAO takes all steps necessary to protect the privacy of all parties. The AAO will prepare an official record of the alternative dispute resolution process which includes the names of the parties involved, the nature of the complaint and the nature of mutually agreed upon resolution agreement.

**AAO Mediated Resolution:** May serve as an alternative dispute resolution facilitator/mediator or suggest other parties to do so. By definition, informal resolutions do not include imposing sanctions, but they may involve mutually agreed-upon consequences.

**Conflict Resolution Center:** Complaints may be resolved by the Conflict Resolution Center, with the written approval of all interested parties and the Conflict Resolution Center. It is the responsibility of the Affirmative Action Officer to place such approvals in the complaint file.

**Choice of Mediated Resolution:** Any member of the IU East community or the trained campus arbitrators identified by the AAO may serve as an alternative dispute resolution facilitator/mediator. By definition, informal resolutions do not include imposing sanctions, but they may involve mutually agreed-upon consequences.

**Self Mediated:** After a complaint has been brought to the attention of the university a direct approach resolution is an option. The parties at interest work together to resolve their differences. This is accomplished through open communication. Written approval of all interested parties must be filed by the AAO to pursue this option.

## **FORMAL PROCEDURES**

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### **The Fact-Finding Process**

**Who may file:** Any member of the campus community, whether faculty, staff, or student, may file a complaint alleging sexual harassment, gender discrimination, or hostile work environment. The definition of these terms is identical to those found in Indiana University Policy and in laws of the State of Indiana and the United States.

**Complaint Recipient:** The affirmative action officer shall be the recipient of sexual harassment complaints. However, in the event of a clear conflict of interest

the Chancellor shall appoint a neutral individual who is free of such conflicts to receive complaints. It is the responsibility of that person who receives such a complaint to initiate the processes described herein to resolve the complaint. When complaints are received by person(s) in positions of authority, other than the AAO, they have the responsibility to initiate the action.

**Complaint Format:** Complainant will complete the sexual harassment complaint form (See appendix A). The complaint recipient or an advocate may assist the complainant in completion of the form after hearing the verbal complaint.

**Notice to the Chancellor:** The Complaint Recipient shall notify the Chancellor about the complaint received within five Chancellor working days. The Chancellor then requests the Complaint Recipient to form the Fact-Finding Panel within fifteen days of notification to the Chancellor.

**Selection of Fact-Finding Panel:** The Fact-Finding Panel shall consist of five members. Three members will be selected from a pool of twelve. One member shall be the Complaint Recipient and the fifth member shall be from the Commission on the Status of Women. The Complaint Recipient, who will normally be the AAO, shall chair the panel.

The pool of twelve shall be selected by lottery from three constituencies: the Faculty, the Staff, and the Students. One of three panel members will be selected from this pool by the complainant, one by the alleged offender and one by the Chancellor. Students will be appointed only when the complainant or the alleged offender is a student. The pool will consist of five faculty members, five staff members, and two students. Faculty and staff members must have completed at least one contract year for faculty and one year of employment for staff. Students should have completed a minimum of forty-five hours of course work at IU East and have been continuously enrolled for the previous three semesters. The Commission for the Status of Women shall assume the responsibility, under the direction of the Chancellor's Office, for assembling this pool of prospective panel members.

Procedures for assembling this pool shall be as follows: the Personnel Office and the Registrar will identify eligible members and furnish the list to the Commission on the Status of Women no later than September 15 of each academic year. The twelve-member pool will be selected by a lottery method from these lists to be completed no later than September 30 of each academic year. Agreement to participate in this pool will be solicited from twelve members and will be completed September 30, of the same academic year; sexual harassment procedural training for the pool of twelve will be organized and completed by October 31 of the same academic year. This will be arranged, conducted and completed by the Commission on the Status of Women.

**Evaluation and Receipt of Evidence by the Fact Finding Panel:** Evaluation of evidence is discretionary with the Fact Finding Panel, in that not only will the

Panel assign weight and credibility levels to evidence, but it may choose to ignore evidence which its members feel is totally lacking in credibility, probative value, or which compels a conclusion contrary to the Panel's common experience or common knowledge. Whether evidence is ignored by the Panel or not, all evidence must be made a part of the record. The Fact Finding Panel will not recognize any presumptions or inferences found in evidence presented to it as being conclusive and therefore un-rebuttable. Rather the Panel will treat all presumptions arising from evidence as rebuttable. Any party at interest failing to rebut an unfavorable presumption when given reasonable opportunity to do so may risk having the Panel draw a conclusion unfavorable to his or her interest. The Fact-Finding Panel may only examine evidence brought to it voluntarily by those who lawfully possessed it, and who had authority to exercise discretion over its dissemination. Evidence examined by the Fact-Finding Panel which is discovered after the fact to have improperly come into the panel's possession shall, in the event of its material and relevant impact on the panel's advisory report be grounds for any party at interest to request a reconsideration of the Panel's conclusion. The existence of material and relevant impact on the panel's written conclusion is a fact to be decided only by the panel. If no relevant and material impact on the panel's conclusion is found in the examination of evidence, which should not have come to it, the panel will treat such evidence as harmless error. If the original panel rendering the conclusion in the Advisory Report cannot be reassembled to consider this issue, a new panel shall be assembled specifically for this purpose. In the event such new panel considers the evidence to have had relevant and material impact on the original advisory Report conclusion, that Report will be set aside and removed from the files maintained by the AAO. All interested parties will be notified at the earliest opportunity and invited to resubmit admissible evidence in conformity with rules stated elsewhere in these guidelines.

**Record Keeping:** Each new complaint will be treated as a separate file. All the complaints must be stored in a secure place with limited access. The AAO and the Chancellor shall have access to all such records. Complaint recipients appointed by the Chancellor, other than the AAO and Fact-Finding Panel members, may have access to records relevant only to the specific complaint which lead to the assembly of that Fact-Finding Panel, through the Chancellor's Office. Knowledge by the AAO of prior complaints involving the same parties at interest may not be shared with other Fact-Finding Panel members, but should be included in a blind section of the Advisory Report before it is sent to the Chancellor. All actions taken in the course of resolving this complaint shall be reduced to writing. And it shall be the responsibility of the AAO or other complaint recipient to ensure that all relevant documents to the complaint are forwarded to the AAO and are placed in this file.

No documents will be made a part of this file unless they bear the signatures of all of the interested parties. It is understood that these signatures in no way

signify agreement with the contents of the documents but merely certify that all concerned parties have read the document. Any disposition flowing from a complaint must also be put in writing, in the form of an Advisory Report and filed by the complaint recipient. Any member of the University Community shall have the right at any reasonable time to request the AAO to examine the index maintained in that office for reference to themselves.

Any information on file with the AAO which reasonably relates to the person making the inquiry may by application to the Chancellor view such information. It shall be within the discretion of the Chancellor to redact such information before allowing the applicant to view it, consistent with the reasonable privacy considerations of other persons whose identity may be contained therein.

### **Procedure for the Fact-Finding Panel**

The Fact-Finding Panel shall convene within five working days of the panel's formation. The entire procedure should be completed within three months of the date convened. If more time is needed, a written request to the Chancellor along with an interim report must be made at the end of the first three months. No more than two extensions, of three months each, may be granted by the Chancellor. Copies of the request and the report must be forwarded to the Complainant and the Alleged Offender. Advocates and legal counsel shall not be allowed at these proceedings.

The failure of an alleged offender to respond is not evidence. Nothing found herein should be construed to mean that alleged offenders are required to respond to allegations in a complaint or to allegations which are inherent in initial testimony. Neither shall these guidelines be construed to mean that failure to respond, in and of itself, will be the basis for an Advisory Report with a conclusion of fact adverse to that alleged offender. However, failure of an alleged offender to respond to a complaint will not cancel the Fact-Finding Panel's responsibilities. The Panel may still receive evidence and write an Advisory Report reaching a conclusion of fact based on that evidence in concert with the alleged offender's refusal to respond. Additionally the complainant will be advised at the earliest possible moment of the alleged offender's refusal to respond in order that timely application may be made by the complainant to other venues of remedy.

The Chancellor shall appoint secretarial assistance to be present with the Fact-Finding Panel during the taking of evidence so that transcripts can be made of all proceedings. The Chair of the Fact-Finding Panel will assemble and dictate the Advisory Report to the secretary. The appointment of secretarial assistance shall occur when the panel is formed and that person shall sign the same confidentiality pledge required of the panel members.

As relevant, material, and competent witnesses are identified, they will be invited to provide evidence. If a response to these invitations is not received by the complaint recipient within five working days, the panel may treat the lack of response as a lack of cooperation. Non-cooperation from any witness, alleged offender, or complainant does not preclude the panel from drawing conclusions about that refusal.

Whenever the Fact-Finding Panel convenes for receiving evidence, only one witness, complainant or alleged offender shall appear before the panel at one time. All interested parties shall have an opportunity to review all testimony. Any request to offer response testimony must be made within five working days of the delivery of the initial testimony to the responding party for review. The panel will only hear response testimony when it is in response to initial testimony. Inasmuch as this is a non-adversarial proceeding, there is no right of cross-examination to any interested party during the taking of testimony. No transcripts or documents will be filed without first being reviewed by all interested parties. Those parties with interest in responding to evidence will have opportunity to do so before the panel on a date scheduled by the panel.

All panel members and secretaries or individuals in whose possession these materials would rightfully come for administrative purposes shall be required to sign a confidentiality statement identical to the one appearing in Appendix B. The panel will request cooperation from all witnesses and interested parties with respect to confidentiality.

An Advisory Report must be filed with the AAO within fourteen weeks of the Fact-Finding Panel convening. The AAO will forward copies of the report to the Chancellor, Complainant, and the Alleged Offender within three days of its receipt. In the Advisory Report the Fact-Finding Panel will conclude based on the evidence that the complaint should be classified into one of the following categories (see Appendix E): *Unfounded Complaint; Exonerated Person; Complaint Not Sustained; Complaint Sustained; or, A Finding of Misconduct Not Based on the Complaint*. All interested parties will be furnished with a copy of the Advisory Report. In order to classify the complaint the Fact-Finding Panel must make a unanimous finding. In the event of a less than unanimous finding of fact, the Advisory Report will be written to reflect the split in the voting and the interested parties will be notified of non-resolution. The complainant will then be advised of further options to reach a resolution.

The Chancellor shall provide a disposition of the complaint in a letter to the parties at interest and the AAO within thirty days of receipt of the Advisory Report.

### **The Appeal Process**

Either party at interest has the right to appeal the decision of the Fact-Finding Panel to the Chancellor within ten days of receiving the Advisory Report. Appeals should be made in writing by a letter directed to the Chancellor. The Chancellor will by letter invite the appealing party to file the

grounds of that appeal and the support for those grounds in writing within ten additional days of receiving this invitation. The appealing party, however, will not be invited to furnish new evidence, which should have been presented during the panel hearing. The Chancellor may ask the fact finding panel to revisit the issues or may resolve the appeal on his or her own initiative. The Chancellor shall render a decision on an appeal in writing within thirty days of receiving the appeal.

If parties involved are not satisfied with the outcome of the appeal process they may approach the President's Office.

## **APPENDIX A SEXUAL HARASSMENT COMPLAINT FORM**

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Name of the Complainant:

Campus Address:

Telephone:

Academic/Administrative Unit:

Student ID number (if appropriate):

Name of the person(s) against whom complaint is being made:

Campus Address:

Telephone:

Academic/Administrative Unit:

Student:     Yes   No

**BELOW WRITE A DESCRIPTION OF THE EVENTS THAT HAVE LED YOU TO FILE THIS COMPLAINT. BE AS SPECIFIC AS POSSIBLE ABOUT DATES AND PLACES. IF THERE ARE ANY WITNESSES, PLEASE INDICATE THAT FACT. YOU MAY ATTACH ADDITIONAL PAPER IF REQUIRED.**

Signature of the complainant:

Date:

## **APPENDIX B CONFIDENTIALITY PLEDGE FOR FACT-FINDING PANEL MEMBERS**

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In my role as a member of the Fact Finding Panel for a sexual harassment complaint, I may learn certain facts about the individuals involved. By signing this agreement, I agree to keep in confidentiality any and all information and evidence presented as a result of said complaint. Confidentiality, by the Fact-Finding Panel members, is essential to this process and a serious matter. This confidentiality does not supersede State and Federal laws. If a member is in violation of the confidentiality requirement they will be removed and excluded

from further service on this and future Fact-Finding Panels. This censure is not intended to restrict other formal action.

Signature:

Date:

## **APPENDIX C INDIANA UNIVERSITY POLICY AGAINST SEXUAL HARASSMENT**

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By Action of The Trustees of Indiana University

(Approved: June 15, 1998)

Harassment on the basis of sex is a violation of federal and state law. Indiana University does not tolerate sexual harassment of its faculty, staff or students. Individuals who believe they are the victims of sexual harassment, as well as those who believe they have observed sexual harassment, are strongly urged to report such incidents promptly. Indiana University will investigate every sexual harassment complaint in a timely manner and, when there is a finding of sexual harassment, take corrective action to stop the harassment and prevent the misconduct from recurring. The severity of the corrective action, up to and including discharge or expulsion of the offender, will depend on the circumstances of the particular case.

Once a person in a position of authority at Indiana University has knowledge, or should have had knowledge, of conduct constituting sexual harassment, the university could be exposed to liability. Therefore, any administrator, supervisor, manager or faculty member who is aware of sexual harassment and condones it, by action or inaction, is subject to disciplinary action.

### A. Definitions

Following federal guidelines, Indiana University defines sexual harassment as follows:

Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement;
2. submission to or rejection of such conduct by an individual is used as the basis of for employment or academic decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or learning environment.

### B. Application

This University policy is designed to protect all members of the University community. It applies to relationships among peers as well as to superior/subordinate relationships. It also applies to all individuals, regardless of their gender or sexual orientation.

#### C. Provisions

1. Faculty, staff and students have the right to raise the issue of sexual harassment. Further, harassment against complainants or retaliation against complainants or others who participate in the investigation of a complaint will not be tolerated. Appropriate and prompt disciplinary or remedial action will be taken against persons found to be engaging in such further harassment.
2. The university will deal with reports of sexual harassment in a fair and thorough manner, which includes protecting, to the extent possible and to the extent permitted by law, the privacy and reputational interests of the accusing and accused parties.
3. Education is the best tool for the prevention and elimination of sexual harassment. Each dean, director, department chair, and/or administrative officer is responsible within his/her area of jurisdiction for the implementation of this policy, including its dissemination and explanation.
4. It is the obligation and shared responsibility of all members of the University community to adhere to this policy.

#### D. Enforcement Principles

Enforcement and implementation of this sexual harassment policy will observe the following principles:

1. Each campus must have procedures--consistent with notions of due process--for implementing this policy including where complaints are made, who investigates complaints, how complaints are resolved, what procedures are available for appeal, and how records are kept.
2. The Campus Affirmative Action Officer shall serve as a resource with regard to interpretation of sexual harassment guidelines.
3. Confidentiality of information relating to investigations of complaints of sexual harassment shall be maintained to the extent practical and appropriate under the circumstances and to the extent permitted by law. Individuals charged with implementing this policy shall share information with regard to given incidents of sexual harassment only with those who have a "need to know" in order to implement this policy.
4. Investigations must be conducted promptly and thoroughly.

5. Whether a particular action constitutes sexual harassment will be determined from the facts, on a case-by-case basis. The University will look at the record as a whole, as well as the context in which the alleged misconduct occurred.
6. Both the charging party and the respondent will be notified of the outcome of the investigation.
7. In the event it is found that sexual harassment has occurred, corrective action, up to and including discharge or expulsion of the offender, will be taken through the appropriate channels of the university. The corrective action will reflect the severity and persistence of the harassment, as well as the effectiveness of previous remedial action.

In addition, the university will make follow-up inquiries to ensure the harassment has not resumed and the complainant has not suffered retaliation.

## **APPENDIX D DEFINITIONS**

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For the purposes of clarity you will find a definition of sexual harassment; gender discrimination; and, hostile work environment below. You are urged to read these descriptions carefully to make sure your complaint involves a violation cognizable under these descriptions.

**AAO:** Wherever found through out these guidelines the term "AAO" shall refer to the Affirmative Action Officer at IU East.

**Advisory Report:** This report contains the investigative results of the Fact Finding Panel and shall be written to reflect the panel's conclusion of fact based on evidence. The Advisory Report, by its unanimous approval, will state its conclusion of fact in terms of one of only five permissible conclusions of fact available to it. Copies of this Advisory report are to be sent to the Chancellor, parties at interest, and the AAO for filing.

**Alleged Offender:** This term is used herein to identify that person against whom a "complaint" of sexual harassment, gender discrimination, or hostile work environment has been filed.

**Complainant:** As used in these guidelines, the term "complainant" refers to that person making a complaint of sexual harassment, gender discrimination, and/or hostile work environment in writing on the complaint form in Appendix A and tendering it to the "complaint recipient".

**Complaint:** The term "complaint" is used herein to refer to an allegation of sexual harassment; gender discrimination, or hostile work environment which has been reduced to writing by a "complainant" on the form appearing in Appendix A of these guidelines and filed with the "complaint recipient"

**Complaint Recipient:** The term "complaint recipient" is used in these guidelines to identify that person to whom the complainant tenders a "complaint." It is recognized that the complaint recipient will generally be the AAO, however, as provided elsewhere in these guidelines, the Chancellor may appoint someone other than the AAO to act as the "complaint recipient" for a specific complaint.

**Evidence:** For the purposes of these guidelines the term "evidence" can be used to refer to any species of proof, or probative matter, properly presented by any invited witness or party at interest to the Fact Finding Panel during its attempt to reach a conclusion of fact about allegations specified in a complaint. This may be done through the medium of oral testimony, records, documents, exhibits, or physical objects only for the purpose of inducing a conclusion of fact by the Fact-Finding Panel.

**Fact-Finding Panel:** The "Fact-Finding Panel" is a group of five individuals, selected by a means described elsewhere in these guidelines. This panel is charged with the responsibility of examining evidence which supports or discredits a complaint and thereafter rendering a written Advisory Report about the credibility of the complaint for review by the Chancellor and filing by the "complaint recipient."

**Hostile Environment:** A pattern of behaviors which is sexual in nature and creates a workplace or academic climate that "unreasonably interferes" with performance. "Sexual in nature" refers not only to "amorous" behavior but also to hostile conduct of a sexual or non-sexual nature, which is based on a particular sex. If you aren't sure if certain behavior creates a hostile work environment, ask yourself whether a "reasonable person" would be offended. The "reasonable person" is the standard used at Indiana University to determine hostile work environment.

**Initial Testimony:** As found herein the term "initial testimony" refers to the evidence given when any complainant, alleged offender, or witness appears for the first time before a Fact Finding Panel.

**Party at Interest:** As it appears herein, the term "party at interest" is used to refer to the complainant(s) and the alleged offender(s), or the offender(s). Where reasonably appropriate this term could also include the University.

**Person(s) in a Position of Authority:** Any faculty member, supervisory staff employee, manager, or University Administrator is a "person in a position of authority" and as such incurs responsibility for forwarding complaints.

**Response Testimony:** As found herein the term "response testimony" refers to a one time opportunity for a party at interest to offer evidence in rebuttal to issues in any initial testimony, or other evidence giving rise to a new issue.

**Sex/Gender Discrimination:** Established by Title VII of the Civil Rights Act of 1964 and Title IX prohibit sex-based discrimination in terms of employment and education.

**Sexual Harassment:** Following federal guidelines, Indiana University defines sexual harassment as follows:

Unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic achievement;
2. submission to or rejection of such conduct by an individual is used as the basis for employment or academic decision making; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

**The University Community:** The use of this term herein implies Administrators, faculty, staff, and/or students at IU East.

**Trained Pool:** The trained pool refers in these guidelines to that body of persons from whom a Fact-Finding Panel shall be assembled.

**Witness:** Within the meaning of these Guidelines, the term "witness" refers to one who, being present, sees or perceives a thing, event, or situation relevant and material to the resolution of disputed allegations contained in a complaint. At the discretion of the Fact-Finding Panel, the lack of first-hand observation or perception is not a bar to appearance before the Panel. As long as that witness, by virtue of recognized expertise or other attribute which puts that witness in a unique position to assist the Panel in its fact finding mission, may also appear before a Panel as a witness.

**Working days:** The use of this term herein indicates Monday through Friday, excepting holidays and days when school is not in session due to inclement weather.

## **APPENDIX E CONCLUSIONS OF FACT**

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### **Five Permissible Categories of Conclusions of Fact Available to the Fact Finding Panel:**

- i. Unfounded Complaint: This** is one of only five permissible categories of conclusions of fact, which the Fact Finding Panel may reach from the evidence examined. This conclusion indicates that the act(s) or omission(s) alleged in the complaint did not occur or not involve the alleged offender. In the event, the Fact-Finding has clear and convincing evidence that the complaint was made with malicious intent, that fact shall be so noted in the advisory report.
  
- ii. Exonerated: This** is one of only five permissible categories of conclusions of fact, which the Fact Finding Panel may reach from the evidence examined. This conclusion indicates that the act(s) or omission(s) alleged in the complaint did occur, however were justified, lawful, proper, and not censurable.
  
- iii. Complaint Not Sustained: This** is one of only five permissible categories of conclusions of fact, which the Fact Finding Panel may reach from the evidence examined. This conclusion indicates the failure to discover sufficient evidence to clearly prove or disprove the allegation(s) made in the complaint against the alleged offender.
  
- iv. Complaint Sustained: This** is one of only five permissible categories of conclusions of fact, which the Fact Finding Panel may reach from the evidence examined. This conclusion indicates that the finding of fact disclosed sufficient evidence to clearly prove the allegations alleged in the complaint against offender.
  
- v. Misconduct Not Based on Complaint: This** is one of only five permissible categories of conclusions of fact, which the Fact Finding Panel may reach from the evidence examined. This conclusion indicates misconduct has been discovered in the finding of fact that is not part of the original complaint.